S. HRG. 100-596

THE POTENTIAL EFFECTS OF THE DRAWBACK EXTENSION ON THE SUGAR PROGRAM

HEARING

BEFORE THE

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION AND STABILIZATION OF PRICES

OF THE

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

SUGAR DRAWBACK PROVISIONS OF THE TRADE BILL

NOVEMBER 16, 1987

Printed for the use of the
Committee on Agriculture, Nutrition, and Forestry

U.S. GOVERNMENT PRINTING OFFICE
84-220 WASHINGTON : 1988

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

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84-220 0 - 88 - 1

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THE POTENTIAL EFFECTS OF THE DRAWBACK EXTENSION ON THE SUGAR PROGRAM

MONDAY, NOVEMBER 16, 1987

U.S. SENATE,
SUBCOMMITTEE ON AGRICULTURAL PRODUCTION AND STABILIZATION OF PRICES OF THE
COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:28 a.m., in room SR-332, Russell Senate Office Building, Hon. John Melcher (chairman of the subcommittee) presiding.

Present or submitting a statement: Senators Melcher, Bond and Breaux.

STATEMENT OF HON. JOHN MELCHER, A U.S. SENATOR FROM MONTANA

Senator MELCHER. The subcommittee will come to order.

There are a couple of reasons for holding this hearing this morning. One, is concerning the sugar drawback provisions that are in the trade bill adopted by both the House and the Senate and is now in conference, a portion of that provides for a special statutory change affecting drawback. It is available to sugar cane refineries, and only available to sugar cane refineries. Beet sugar refineries are not eligible for these special provisions on drawback.

The substance of that statutory change, it appears to me, casts doubts on the integrity of the sugar program itself, and I believe that requires public scrutiny and understanding. That is the first reason we are here today to establish a public record on the question.

The second point that is involved is that in the language, the extension appears to double the existing drawback period of 8 years to 17 years.

I think everybody understands there has been no public hearing on this and perhaps the biggest airing it got was the debate on the Senate floor. During that debate I said first of all that I was not satisfied that the statutory change was correct or proper.

But in order to get some public record of it, we have a hearing in this subcommittee on it, and what I hope this hearing will produce is the facts that demonstrate the exact situation.

Now, if you listen to an explanation of what this is all about or even read the record of the debate that was held on the Senate floor last July, I think most people would get the impression that a sugar refinery imports some sugar and pays the duty on it and

then exports that sugar and, when it does, draws back the duty that was paid on it as an import.

Well, that can certainly occur, but I do not think that is exactly what is involved here. I have gone over all of the testimony that has been submitted, and I have to come to the conclusion that the companies that would use this new statutory authority, would probably import sugar that, because of the country it comes from, does not have any duty on it.

We have some provisions that permit Caribbean countries, for instance, to send some sugar in or we import it from them and there is no duty collected on it. And so it is not just a simple deal where company A that is a sugar refiner is going to import sugar and pay some duty on it, necessarily, and then refine it and export it and just draw back the duty that was paid on it. It is much more complicated than that.

The test is really whether it is a subsidy, and if it appears to be a subsidy, is it justified; is it in the public interest. The witnesses are prepared to tell us it is in the public interest, but I believe for Congress to make an evaluation we have to thoroughly understand the facts.

It might appear that this hearing is somewhat after the fact. Well, I do not know that is the case at all. It seems to me, with the trade bill in conference, this will be one of the matters that the conferees will want to be sure to understand and evaluate prior to bringing out a conference report.

I am on that conference, but not necessarily on this particular provision because this provision is under the jurisdiction of the House Ways and Means Committee and the Senate Finance Committee. But it is my understanding that it has been identified by the leaders of the conference as one that needs to be evaluated. They want to be reassured that indeed it is in the public interest.

One of the means we have here in Congress to assist us in making judgments on whether or not the facts are thoroughly understood and evaluated is to ask the General Accounting Office for a report on it.

I do not believe the General Accounting Office has been asked to evaluate this particular provision. Perhaps as an outcome of this hearing, some of us might want to make that request of the General Accounting Office.

Senator Bond, do you have any opening statement?

STATEMENT OF HON. CHRISTOPHER S. "KIT" BOND, A U.S. SENATOR FROM MISSOURI

Senator BOND. Thank you very much, Mr. Chairman. I too share your interest in this program. I was concerned that there was not a hearing held prior to the introduction of the provision on the trade bill.

Like you, I followed the debate closely and I think I gathered a few points. Number one, the proponents say we do not want to be exporting our refining industry and they point out that this seeks a refund of duties previously paid.

On the other side, we have heard some very strong arguments that because of records for 1977 and 1978 having been destroyed, it

would be very difficult for the Customs Service to confirm these claims and assure that they are appropriately being paid.

I think you, Mr. Chairman, have raised a very good question as to what it would do to the rest of the sugar program. I am concerned about the precedent it might set for other products, and also I think we ought to take a look at what this will do to our international trading situation because, as I understand it, drawbacks are permissible, but only for a 2-year period.

Since we are interested in agricultural trade and securing particularly the European Community's agreement to move toward freer international trade in agriculture, we would not want to be taking a step backward from the general rules of international trade. We feel these rules ought to be liberalized for the benefit of America's farmers.

So I commend you for calling this hearing today and I, too, look forward to learning a little bit more about the program from these witnesses.

Thank you, Mr. Chairman.

Senator MELCHER. Thank you, Senator.

We have a prepared statement from Senator Breaux which we will insert in the record at this point.

PREPARED STATEMENT OF HON. JOHN B. BREAUX, A U.S. SENATOR FROM LOUISIANA

REGARDING SUGAR DRAWBACK PROVISION HEARING—NOVEMBER 16, 1987

Mr. Chairman, I greatly appreciate the opportunity to address the committee on the circumstances surrounding the adoption by both the House and the Senate of identical provisions to extend the period during which U.S. cane sugar refiners can legally claim drawback rights against tariffs paid on raw sugar imports destined for reexport.

As you know, I continue to be a strong proponent of this legislation as it provides the necessary and fair mechanism to maintain a viable U.S. cane sugar refining industry and a reliable domestic market for U.S. cane sugar producers. As you well know, domestic cane refiners are confronted with domestic import restrictions as well as an unrealistic world market driven by unfair European subsidies that, together, have progressively forced this industry out of existence. Neither of these Government policies are under the control of the refiners. I believe the sugar drawback provision is the only immediately available means to prevent the further decline of this important industry.

However, I share the chairman's concern over the need for an established record on this issue and I think this hearing provides all that is necessary to achieve that objective.

I also share the concerns of the chairman that the mechanism that has been proposed by Congress is one that can be effectively administered by the Customs Service. Proper documentation verifying the drawback claims by U.S. cane sugar refiners is central to this process. In my extensive review of the situation, I have become thoroughly satisfied that adequate records documenting drawback rights exist and are readily available to the Customs Service. I am also impressed at the degree of cooperation afforded by the U.S. cane sugar refiners in this regard.

Finally, Mr. Chairman, I think this hearing has provided an excellent opportunity for the committee to better understand the true budgetary impact of this legislation as this is an issue that has been confused by a substantial amount of misinformation. I am certain the administration, particularly the U.S.D.A. shares my appreciation for this clarification.

Again, I thank the chairman for holding this important hearing so that Congress can move forward with this necessary legislation.

Senator MELCHER. We will start. Our first witness is Richard Goldberg, who is the Deputy Under Secretary for International Af-

fairs and Commodity Programs from the Department of Agriculture.

Mr. Goldberg.

STATEMENT OF RICHARD W. GOLDBERG, ACTING UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS, U.S. DEPARTMENT OF AGRICULTURE, WASHINGTON, DC; ACCOMPANIED BY JOHN NUTTALL, CHIEF, SUGAR GROUP, FOREIGN AGRICULTURAL SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. GOLDBERG. Thank you, Mr. Chairman. Mr. Chairman, Senator Bond, I have with me today John Nuttall, who is the chief of our sugar operations in the Foreign Agricultural Service. So if I get too far afield or get technically astray, he is the gentleman that will correct me as we go along.

Mr. Chairman, I would like to compliment you for holding this hearing. As both of you gentlemen have pointed out, this bill passed both the House and the Senate absent any type of public opportunity for views to be made, certainly, by the administration and others.

Other than the debate on the Senate floor in July where the amendment stayed in the trade bill by four votes, that is the only public exposure that it has had. So we welcome the opportunity to be here, Mr. Chairman.

I would like to point out that we are only going to deal with section 897, which is the sugar drawback provision of the omnibus trade bill, as it relates to the Tariff Act of 1930 on imports of raw cane sugar. I want to make it clear at the outset, Mr. Chairman and Senator Bond, that the administration strongly opposes this section of the trade bill. This provision would require the establishment of a program that would be extremely difficult to administer, would be very vulnerable to abuse, would invite retaliation by our trading partners and, most of all, would mandate an unacceptable budget cost of anywhere from $250 to $800 million, depending upon whose numbers or whose projections you use. But I think everybody would conclude that the dollars involved, the budget outlays, are enormous.

Before I elaborate on these concerns, I would first like to provide some background information, if I may, on the relationship between drawback and the sugar price support programs as implemented over the past several years. Mr. Chairman, as you pointed out, the two are related. I will then address the likely impact that section 897 of the trade bill would have on the sugar market and the sugar program, and in particular, the likely winners and losers should this become law. I will conclude with the Department's principal objections to section 897. I ask the chairman and members of this subcommittee to bear with me for a little while so we can get some of the background involved and better understand what is at stake.

BACKGROUND

IMPORT DUTIES AND SECTION 22 IMPORT FEES

Basically, all I am going to say, Mr. Chairman, about that is that in preceding years imported sugar was subjected to both a section 22 fee and an import duty, and in some years that reached a high, in 1982, of 6.8 cents.

I have attached as part of the record what those import duties and fees amounted to over the periods of time that they were in effect.

It might be helpful to review an example of how a duty and fee system operates. The starting point is the domestic target price level toward which we are attempting to raise the price of imported sugar. The price of imported sugar is raised to prevent it from entering the market at a discount to domestically produced sugar. Quite obviously, if it did enter this country at a discount, the result would be the acquisition of sugar by the Commodity Credit Corporation.

For the sugar programs operating during the period beginning with expiration of the old Sugar Act in 1974 and up to the implementation of the Agriculture and Food Act of 1981, this targeted price was termed the market price objective. Since that time, and until March 29, 1985, the targeted price has been called the market stabilization price or MSP. The duty and fee system would work in the following manner, and I am just going to, if I might, Mr. Chairman, just to simplify it and shorten up my remarks a little bit, explain basically what happens.

If a sugar refiner imported sugar, say, at 11 cents a pound or 10 cents a pound under the old drawback provisions, the fees and the duties, let us say for purposes of illustration, would total 4 to 5 cents a pound, so that the imported price that the refiner paid on the sugar would be 10 cents and the fees and duties to be paid would be a nickel. He then, of course, would sell the sugar in the domestic market at the domestic price, not at the 10 or 11 cents on the price that it was imported at, but at the 15 cents that would be the market price objective.

Both the duties and the fees paid on sugar imports are accessible under the duty drawback statute. In the example I used, the duties and fees would total 4 cents per pound. Over the history of the duty and fees, I mentioned this got up to a high of 6.8.

THE CANE REFINERS' RELIANCE ON DUTIES AND FEES

Now, let us talk, if I might, about the cane refiners' reliance on duties and fees. Section 22 fees on raw sugar were suspended in 1985 because they were no longer able to accomplish their objective. In other words, the section 22 fees were not great enough—you could go to 50 percent, but were not great enough to bring up the imported price to a level where they could meet or exceed the target price. So they were suspended. That is what happened in 1985. Since that time, we have had a minimal duty, which is only .625 cent per pound, and that amount only applies to a certain number of exporting countries. Most of the sugar enters the United States duty-free under the Generalized System of Preferences or

the Caribbean Basin Initiative. So, today, the situation is that most of the major sugar exporting countries in the world bring sugar into this country, most of it under our quota, duty-free because of the Generalized System of Preferences.

This has important implications for cane refiners, and it is likely the reason that the refining industry, shortly after the suspension of the fee system and the reduction of duties to the statutory minimum, caused to have introduced the drawback legislation that we are now discussing.

The refiners currently participate in a program authorized in 1982 which allows them access to world price sugar exempt from quotas, provided that this sugar is refined and then exported out of the United States within a 3-month period. This program, entitled "Sugar To Be Reexported in Refined Form," began on June 23, 1983, when the Department of Agriculture issued regulations for the program. The regulations were subsequently modified on October 7, 1985.

The intent of the Sugar To Be Reexported in Refined Form Program is to promote higher capacity utilization in the refining industry. Capacity utilization has been on the decline due to continuous reductions of import quotas.

So, basically, what I am saying is that the unfortunate position that the cane refiners find themselves in today is due to the continual reduction in the import quotas for sugar exporting countries into the United States.

Prior to the imposition of these restrictive quotas, it should be pointed out that the United States was a net importer of roughly 4.5 million tons of sugar annually, and today's quota, Mr. Chairman, as you know, is roughly over 1 million tons of sugar divided amongst many countries. In addition, 500,000 tons are used by the refiners in this country under the sugar reexport program.

This program was initiated to promote capacity utilization because subsequent to the imposition of the import quotas, the refiners only had access to domestically produced and quota sugar, which was much higher in price than the world price. Refiners cannot process the higher priced domestically available sugar and sell it competitively on the world market. Once they had access to world price raw sugar, the refiners still needed additional help to enable them to compete with world price refined sugar. This is where the duty drawback enters the picture.

The world price for refined sugar, due to export subsidy practices by the European Community, tends to run only about 2 cents per pound above the price for raw sugar. For example, if the world price for raw sugar is 7 cents per pound, the corresponding refined sugar price will be in the vicinity of 9 cents per pound. By contrast, U.S. refiners require about 5 cents per pound to process raw sugar. In this example, world price raw sugar at 7 cents per pound can be refined in U.S. refineries for 5 cents, for a total of 12 cents per pound refined sugar price.

U.S. refiners' 12 cent sugar cannot compete with the 9 cent sugar price. Three cents per pound is required to bring the 12 cent sugar down to 9 cents, and the refiners have used the duty drawback to accomplish this price reduction. Their practice has been to bring in raw sugar from a country for which the sugar can enter duty free

and then refine the sugar and claim the drawback sufficient to bring the price down 3 cents and make the sugar competitive. As I indicated earlier, the available drawback at times has been a high of 6.8. cents per pound. With available drawback at that level, the difference between the 3 cents and the 6.8 cents would be pocketed by the refiner.

As you can see, the drawback program and the reexport program must work in tandem. Without the quota-exempt reexport program, refiners cannot obtain world price raw sugar for export, and without drawback refiners cannot compete internationally. So, if either of the two programs for some reason came to a halt, refiners would stop processing sugar for export, resulting in a reduction in their capacity utilization.

It should be clear now why refiners worked to get this legislation introduced in early 1986. It became apparent to the refining industry that with the elimination of the section 22 fee mechanism in March 1985 and the reduction of the duty to the statutory minimum in Janaury 1985, they would shortly face still another reduction in their capacity utilization. The contraction would occur because refiners eventually would no longer receive drawback duty and fee amounts in the vicinity of 3 cents per pound. By expanding existing drawback provisions, U.S. refiners would be able to claim duty and fee amounts in excess of the critical 3 cent level.

Through this legislation, refiners would be able to draw payments in the vicinity of 4 to 6 cents and more per pound, enabling them to import world price raw sugar duty free under the refined sugar reexport program, refine the sugar, and then export it.

At this point, I would like to clear up a major misconception about just who actually paid the duties and fees. I alluded to it a little earlier, Mr. Chairman, but I would like to describe it a little more fully. The refining industry asserts that these came out of their pocket. My description of the operation of a duty and fee system shows that this is not true.

Let us return to the example, with the targeted price level of 15 cents per pound. In the example, a total of 4 cents per pound was levied as duties and fees on imported sugar. The question is, did the 4 cents per pound really come out of the refiners' pockets? Absolutely not. The refiners paid a price of 11 cents per pound and passed on the 4 cents per pound in duties and fees by selling the sugar at 15 cents per pound, plus refining costs, in the U.S. domestic market. So, the 4 cents per pound actually would have come out of the pocket of the domestic consumer of the refined sugar.

WINNERS AND LOSERS

WINNERS

In discussing the winners and losers, it is important to distinguish between the short term and the long term. We believe there are clear beneficiaries in the short term, but not in the longer term.

In the short run, the clear winners, of course, are the refiners. They would gain access to drawbacks totaling in the hundreds of millions of dollars, which might enable them to postpone reducing

refining capacity for another year or two, at least in the short term. In other words, it does not correct the long-term problem.

THE LOSERS

Some would assert that the exporting countries, particularly those in the Caribbean, stand to gain from the legislation. It is not so clear that this would be the case. The legislation would have a depressing effect on world sugar prices. It would flood the world market with more refined sugar, first depressing the world refined sugar price and subsequently forcing down the world raw sugar price. Raw sugar exporting countries, in general, would end up having to hold additional raw sugar stocks equivalent to the increased amount of refined sugar exported due to this legislation. Exporters of raw sugar would thus be doubly impacted, first by lowering the raw sugar prices and subsequently by the costs of holding additional stocks.

I have to point out, Mr. Chairman, that those countries who, because of transportation difficulties and they are away from our shores—major sugar exporting countries such as the Philippines, Thailand, Australia, and others would be very much adversely impacted by the adoption of this type of legislation.

Furthermore, the legislation, as you pointed out, would injure sugar beet producers and processors. The legislation specifically prohibits beet sugar from drawback benefits, and many believe that this would not affect beet sugar marketings, basing this belief presumably on the assumption that we do not export refined beet sugar. Both the belief and the presumption are incorrect.

Under the refined sugar reexport program, beet sugar is actively substituted for refined cane sugar and exported because of the windfall which can be gained from the fact that refined beet sugar sells at a discount to refined cane sugar. With enactment of this provision, refiners will gain access to substantial duty drawback benefits if, and only if, they export refined cane sugar. The result will be that they will no longer actively seek to substitute beet sugar for cane sugar for purposes of exportation. This will lead to a decline in marketings of U.S. refined beet sugar and the corresponding impact on returns of domestic beet sugar processors.

Finally, it should not be ignored that it is the taxpayer who is going to foot the bill for this legislation. It has not been possible to pinpoint what the exact cost of the legislation would be. However, all of the estimates are in the hundreds of millions of dollars.

DEPARTMENT OF AGRICULTURE POSITION

The Department of Agriculture sympathizes with the refiners. However, we do not believe that these excessive outlays at the expense of the taxpayers will change the long-term outcome for U.S. refiners. Specifically, as most of you know, the refiners' situation has developed primarily because of the existing program legislation related to sugar.

Section 897 of the trade bill does not address the root cause for the cane refining industry's problem. It merely piles one subsidy program on top of another. Furthermore, even though there are hundreds of millions of dollars involved here, those hundreds of

millions of dollars will eventually get used up. Then the question arises what happens then? When that happens, we will have thrown a lot of money at an industry with a problem only to find that the problem is still there. At a time when we all are striving to straighten out ongoing budgetary imbalances, this is clearly bad policy.

Mr. Chairman, I appreciate your bearing with me through my testimony and I would be happy to respond to any questions that you or Senator Bond may have.

[The prepared statement of Mr. Goldberg with attachments follows:]

TESTIMONY OF RICHARD W. GOLDBERG

ACTING UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

U.S. DEPARTMENT OF AGRICULTURE

BEFORE THE

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION AND STABILIZATION OF PRICES

SENATE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

NOVEMBER 16, 1987

Mr. Chairman, I appreciate the opportunity today to provide you and other members of the Subcommittee the Department of Agriculture's views on Section 897 of the Omnibus Trade Bill, relating to the application of the drawback provisions of the Tariff Act of 1930 to imports of raw cane sugar. I want to make it clear at the outset that the Administration strongly opposes this section of the Trade Bill. This provision would require the establishment of a program that would be extremely difficult to administer, would be very vulnerable to abuse, would invite retaliation by our trading partners, and would impose unacceptable budget costs of up to nearly $800 million.

Before I elaborate on these concerns, I would first like to provide some background information on the relationship between drawback and the sugar price support programs implemented over the past several years. I will then address the likely impact that Section 897 would have on the sugar market and the sugar program, and in particular, the likely winners and losers. I will conclude with the Department's principal objections to Section 897. I ask the Chairman and members of this Subcommittee to bear with me, for this is a long, complex and intricate story, one which cannot be properly conveyed without touching on a great amount of detail.

Background

1. Import Duties and Section 22 Import Fees

The Department of Agriculture has, in the past, relied on a system of import duties and section 22 import fees to raise the price of imported sugar to a targeted domestic price level for sugar. There is authority under the headnotes of Schedule 1, Part 10, Subpart A of the Tariff Schedules of the United States to set the import duty on sugar at up to 2.8125 cents per pound, raw value. Currently, the import duty on sugar is at the statutory minimum of .625 cent per pound. There is authority under section 22 of the Agricultural Adjustment Act of 1933, as amended, to impose import fees on sugar up to 50% of the f.o.b. value of the sugar when necessary to protect the sugar price support program. Such fees are in addition to the import duties.

It might be helpful to review an example of how a duty and fee system operates. The starting point is the domestic target price level toward which we are attempting to raise the price of imported sugar. The price of imported sugar is raised to prevent it from entering the market at a discount to domestically produced sugar. Otherwise, the operation of a loan or purchase program for sugar would result in the acquisition of sugar by the Commodity Credit Corporation (CCC).

For the sugar programs operating during the period beginning with the expiration of the old sugar act (December 31, 1974) and up to the implementation of the

Agriculture and Food Act of 1981 (December 22, 1981), this targeted price was termed the Market Price Objective. Since that time, and until March 29, 1985, the targeted price has been called the Market Stabilization Price or MSP. Here's how such duty and fee systems tended to operate: if the targeted price were, say, 15 cents per pound, and the f.o.b. value of the imported sugar were 10 cents per pound, duties and fees would fill the gap between the two prices, adjusted for transportation. In this example, if transportation were 1 cent per pound and the duty were set at the statutory maximum of 2.8125 cents per pound, the section 22 import fee would be 15 cents minus 2.8125 cents minus 1 cent minus 10 cents, or 1.1875 cents per pound.

Both the duties and the fees paid on sugar imports are accessible under the duty drawback statute. In the just-discussed example, the duties and fees total 4 cents per pound. Over the history of the duty and fee system, duties and fees reached a maximum of 6.8825 cents per pound during the period April 21, 1982 through June 30, 1982. They totaled the minimum level of .625 cent per pound until September 20, 1976 (including the period of the old sugar act), during February 1, 1980 through September 10, 1981 and from March 29, 1985 to the present.

2. The Cane Refiners' Reliance on Duties and Fees

Section 22 fees on raw sugar were suspended by Presidential Proclamation No. 5313 on March 29, 1985 because they were no longer able to accomplish their objective of raising imported sugar values to the targeted domestic price level. Thus, since that time only .625 cent per pound of duties have been imposed on imported raw sugar.

And this amount is only applied to sugar imported from very few countries. This is because most sugar enters the United States duty free under either the Generalized System of Preferences (GSP) or the Caribbean Basin Initiative (CBI).

This has important implications for cane refiners, and it is likely the reason that the refining industry, shortly after the suspension of the fee system and the reduction of duties to the statutory minimum (Presidential Proclamation No. 5297 of January 31, 1985), worked to have this drawback legislation introduced (H.R. 4563, April 10, 1986). Let me explain further.

The refiners currently participate in a program authorized by Presidential Proclamation No. 5002 of November 30, 1982 which allows them access to world price sugar exempt from quotas provided that this sugar is refined and then exported out of the United States within 3 months. This program, entitled "Sugar To Be Re-Exported In Refined Form", began on June 28, 1983, when the Department of Agriculture issued regulations for the program. The regulations were subsequently modified on October 7, 1985.

The intent of the "Sugar To Be Re-Exported In Refined Form" program is to promote higher capacity utilization in the refining industry. Capacity utilization has been on the decline due to continuous reductions of import quotas. Country by country quotas on imported sugar were imposed on May 5, 1982 by Presidential Proclamation No. 4941. Prior to the imposition of these restrictive quotas,

the U.S. was a net importer of about 4.5 million tons of sugar annually, compared to the quota in the current year of just over 1 million tons. Since imports of sugar are principally raw cane sugar, the reduction from 4.5 million tons to 1 million tons constitutes a direct decline of refining capacity utilization. The quota-exempt program moderates this decline somewhat, as about 500,000 short tons of sugar a year are processed under this program.

This program was initiated to promote capacity utilization because subsequent to the imposition of import quotas, the refiners only had access to domestically produced and quota sugar, which was much higher in price than the world price. Refiners cannot process the higher priced domestically available sugar and sell it competitively on the world market. Once they had access to world price raw sugar, the refiners still needed additional help to enable them to compete with world price refined sugar. This is where duty drawback enters the picture.

The world price for refined sugar, due to export subsidy practices by the European Community, tends to run only about 2 cents per pound above the price for raw sugar. For example, if the world price for raw sugar is 7 cents per pound, the corresponding refined sugar price will be in the vicinity of 9 cents per pound. By contrast, U.S. refiners require about 5 cents per pound to process raw sugar. In this example, world price raw sugar at 7 cents per pound can be refined in U.S. refineries for 5 cents, resulting in a 12 cent per pound refined sugar price.

U.S. refiners' 12 cent sugar can not compete with the 9 cent sugar. Three cents per pound are required to bring the 12 cent sugar down to 9 cents and the refiners have used duty drawback to accomplish this price reduction. Their practice has been to bring in raw sugar from a country for which the sugar can enter duty free and then refine the sugar and claim drawback (based on earlier imports for which a duty was paid) sufficient to bring the price down 3 cents and make the sugar competitive. As I indicated earlier, the available drawback at times can be quite large, and reached a maximum of 6.8825 cents per pound. With available drawback at that level, the difference between 3 cents and 6.8825 cents would be pocketed by the refiner.

As you can see, the drawback program and the reexport program must work in tandem. Without the quota-exempt reexport program, refiners can not obtain world price raw sugar for export, and without drawback refiners can not compete internationally. Thus, if either of the two programs for some reason came to a halt, refiners would stop processing sugar for export, resulting in a reduction in their capacity utilization.

It should be clear now why refiners worked to get this legislation introduced when it was, in early 1986. It became apparent to the refining industry that with the elimination of the section 22 fee mechanism in March 1985 and the reduction of the duty to the statutory minimum in January 1985, they would shortly face yet another reduction in their capacity utilization. The contraction would occur because refiners eventually would no longer receive drawback duty and fee

amounts in the vicinity of 3 cents per pound. By expanding existing drawback provisions U.S. refiners would be able to claim duty and fee amounts in excess of the critical 3 cent level.

Through this legislation, refiners would be able to draw payments in the vicinity of 4 to 6 cents and more per pound, enabling them to import world price raw sugar duty free under the refined sugar reexport program, refine the sugar, and export it.

At this point, I would like to clear up a major misconception about just who actually paid the duties and fees. The refining industry asserts they came out of their pocket. My description of the operation of a duty and fee system shows that this is untrue.

Let's return to the example, with the targeted price level of 15 cents per pound. In the example, a total of 4 cents per pound was levied as duties and fees on imported sugar. But did the 4 cents per pound really come out of the refiners' pockets? Absolutely not. The refiners paid a price of 11 cents per pound and passed on 4 cents per pound in duties and fees by selling the sugar at 15 cents per pound plus refining costs in the domestic market. Thus, the 4 cents per pound actually would have come out of the pocket of the domestic consumer of the refined sugar.

Winners and Losers

1. Winners

In discussing the winners and losers under this legislation, it is important to distinguish between the short term and the long term. We believe that there are clear beneficiaries in the short term but not in the longer term.

In the short run, the clear winners are the refiners. They would gain access to drawbacks totaling in the hundreds of millions of dollars which might enable them to postpone reducing refining capacity for another year or two.

2. Losers

Some would assert that the exporting countries, particularly those in the Caribbean, stand to gain from this legislation. It is not so clear that this is the case. This legislation would have a depressing effect on world sugar prices. It would flood the world market with more refined

sugar, first depressing the world refined sugar price and subsequently forcing down the world raw sugar price. Raw sugar exporting countries in general would end up holding additional raw sugar stocks equivalent to the increased amount of refined sugar exported due to this legislation. Exporters of raw sugar would thus be doubly impacted, first by lower raw sugar prices and subsequently by the costs of holding additional stocks.

Furthermore, this legislation would injure sugar beet producers and processors. The legislation specifically prohibits beet sugar from drawback benefits and many believe that this would not affect beet sugar marketings, basing this belief presumably on the assumption that we do not export refined beet sugar. Both the belief and the presumption are incorrect.

Under the refined sugar reexport program, beet sugar is actively substituted for refined cane sugar and exported because of the windfall which can be gained from the fact that refined beet sugar sells at a discount to refined cane sugar. With enactment of this provision, refiners will gain access to substantial duty drawback benefits if and only if they export refined cane sugar. The result will be that they will no longer actively seek to substitute beet sugar for cane sugar for purposes of exportation. This will lead to a decline in marketings of U.S. refined beet sugar and the corresponding impact on returns of domestic beet sugar processors.

Finally, it should not be ignored that it is the taxpayer who is going to foot the bill for this legislation. It has not been possible to pinpoint what the exact cost of the legislation would be. However, all of the estimates are in the hundreds of millions, ranging from a minimum potential budgetary exposure of over $260 million to a maximum potential budgetary exposure of nearly $800 million.

Department of Agriculture Position

The Department of Agriculture sympathizes with the refiners. However, we do not believe that these excessive outlays at the expense of the taxpayers will change the long term outcome for U.S. refiners. Specifically, as most of you know, the refiners' situation has developed as a result of existing program legislation related to sugar.

Section 897 of the trade bill does not address the root cause for the cane refining industry's problems. It merely piles one subsidy program on top of another. Furthermore, even though there are hundreds of millions of dollars involved here, those hundreds of millions of dollars will eventually get used up. When that happens,

we will have thrown a lot of money at an industry with a problem only to find that the problem is still there. At a time when we all are striving to straighten out ongoing budgetary imbalances, this is clearly bad policy.

That concludes my statement Mr. Chairman and I would be happy to respond to questions.

SUMMARY OF ACTIONS RELATED TO DUTIES, FEES AND SUGAR PRICE SUPPORTS

December 31, 1974: Expiration of the old sugar act. Duties at the statutory minimum of .625 cent per pound, raw value.

September 21, 1976: By Presidential Proclamation No. 4463, duties raised to 1.875 cents per pound.

November 8, 1977: Food and Agriculture Act of 1977 signed, establishing loan/purchase program for sugar of at least 13.50 cents per pound for 1977/78 and 1978/79. Price objective for 1977/78 set at 13.50 cents per pound and price objective for 1978/79 set at 14.73 cents per pound.

November 11, 1977: Variable section 22 fee mechanism established by Presidential Proclamation No. 4538.

November 11, 1977: Duties raised to statutory maximum of 2.8125 cents per pound by Presidential Proclamation No. 4539.

January 20, 1978: Fixed section 22 import fee system established by Presidential Proclamation No. 4547. Fee on raw sugar set at 2.70 cents per pound and fee on refined sugar set at 3.22 cents per pound pending an investigation by the International Trade Commission.

December 28, 1978: Presidential Proclamation No. 4631 establishes automatic, variable fee system, effective January 1, 1979. Import fee on refined sugar set at .52 cent per pound above the raw sugar import fee.

August 3, 1979: Secretary of Agriculture announces loan program of 13.00 cents per pound with a market price objective of 15.00 cents per pound.

February 1, 1980: Presidential Proclamation No. 4720 reduces duties to the statutory minimum of .625 cent per pound.

December 23, 1981: Presidential Proclamation No. 4887 provides authority to the Secretary of Agriculture to adjust section 22 import fees.

December 23, 1981: Presidential Proclamation No. 4888 raises import duties to the statutory maximum of 2.8125 cents per pound.

December 23, 1981: Agriculture and Food Act of 1981 becomes effective, requiring a purchase program at 16.75 cents per pound, raw value, for sugar processed between December 22, 1981 and March 31, 1982 and a nonrecourse loan program set at 17 cents per pound for fiscal year 1982/83; 17.50 for fiscal year 1983/84; 17.75 for fiscal year 1984/85; and, 18 cents thereafter (the latter was extended through the 1991 crop by the Food Security Act of 1985).

May 5, 1982: Presidential Proclamation No. 4940 modifies the procedure for the Secretary of Agriculture to adjust section 22 fees and fixes the fee on refined sugar to 1 cent per pound above the fee for raw sugar.
May 5, 1982: Presidential Proclamation No. 4941 establishes country by country import quotas under the authority of the headnotes of Schedule 1, Part 10, Subpart A of the Tariff Schedules of the United States.

November 30, 1982: Presidential Proclamation No. 5002 authorizes the Secretary of Agriculture to promulgate regulations allowing for the importation of sugar exempt from the headnote quotas provided that the sugar is used for specified purposes, among them for refining and exportation.

June 28, 1983: Department of Agriculture issues final rule for refined sugar reexport program authorized by Presidential Proclamation No. 5002.

March 19, 1984: Presidential Proclamation No. 5164 finalizes the section 22 fee system established by Presidential Proclamation No. 4940.

January 31, 1985: Presidential Proclamation No. 5297 reduces the import duty to the statutory minimum of .625 cent per pound.

March 29, 1985: Presidential Proclamation No. 5313 suspends the fee system established by Presidential Proclamation No. 5164 and sets the import fee on refined sugar at 1 cent per pound.

April 10, 1986: H.R. 4563 is introduced, the predecessor of Section 897 of the omnibus trade bill.

SUMMARY OF TOTAL IMPORT DUTIES AND SECTION 22 IMPORT FEES
(cents per pound, raw value)

Time Period	Duties & Fees
Through 12/30/74	.6250
1/1/75 - 9/20/76	.6250
9/21/76 - 11/10/77	1.8750
11/11/77 - 11/30/77	4.3925
12/1/77 - 12/31/77	4.5525
1/1/78 - 1/19/78	4.6125
1/20/78 - 12/31/78	5.5125
1/1/79 - 3/31/79	6.1625
4/1/79 - 6/30/79	5.5725
7/1/79 - 8/31/79	6.1725
9/1/79 - 9/30/79	5.1725
10/1/79 - 10/18/79	4.5725
10/19/79 - 10/23/79	3.5725
10/24/79 - 1/31/80	2.8125
2/1/80 - 9/10/81	.6250
9/11/81 - 9/30/81	1.6250
10/1/81 - 12/23/81	2.1560
12/24/81 - 3/31/82	4.9543
4/1/82 - 4/20/82	5.8828
4/21/82 - 6/30/82	6.8825
7/1/82 - 7/20/82	6.2318
7/21/82 - 8/9/82	5.2318
8/10/82 - 8/27/82	4.2318
8/28/82 - 9/30/82	3.2318
10/1/82 - 12/31/84	2.8125
1/1/85 - 1/30/85	3.1000
1/31/85 - 2/11/85	.9125
2/12/85 - 3/4/85	1.9125
3/5/85 - 3/28/85	2.9125
3/29/85 to Present	.6250

SUGAR PRICE OBJECTIVES (MARKET STABILIZATION PRICE AND MARKET PRICE OBJECTIVE) SINCE EXPIRATION OF THE OLD SUGAR ACT
(in cents per pound, raw value)

Period	Objective
11/8/77 - 9/30/78	13.50
10/1/78 - 9/30/79	14.73
10/1/79 - 12/23/81	15.00
12/24/81 - 9/30/82	19.08
10/1/82 - 9/30/83	20.73
10/1/83 - 9/30/84	21.17
10/1/84 - 9/30/85	21.57
10/1/85 - 9/30/86	21.50
10/1/86 - 9/30/87	21.78
10/1/87 - 9/30/88	21.76

Senator MELCHER. Mr. Goldberg, you have attached to your testimony the Summary of Actions Related to Duties, Fees, and Sugar Price Supports beginning on December 31, 1974, and there were several changes made by Presidential proclamation or acts of Congress.

First of all, on December 31, 1974, the old Sugar Act expired. From that time on the Department of Agriculture established a mechanism, where if sugar was brought into the United States—and I think you have testified that about 4.5 million tons was brought in annually—there was a mechanism where the difference between the imported price and the domestic—the domestic price that was somewhere, what, about 15 cents to begin with?

Mr. GOLDBERG. It was lower than that; I think about 13.5 cents back in those days.

Senator MELCHER. The domestic price was 13½ cents?

Mr. GOLDBERG. Yes, sir.

Senator MELCHER. So whatever the sugar was imported at, there was a mechanism to bring the price of the refined product up to a certain level?

Mr. GOLDBERG. That is correct.

Senator MELCHER. And that was used domestically?

Mr. GOLDBERG. That is correct.

Senator MELCHER. We went on with that sort of an arrangement for several years, did we not?

Mr. GOLDBERG. That is correct.

Senator MELCHER. Until what, about 1981?

Mr. GOLDBERG. About 1982.

Senator MELCHER. 1982.

Mr. GOLDBERG. But during that period of time, it is fair to point out that the domestic support price kept escalating, which——

Senator MELCHER. Well, did it not get up to about 18 cents?

Mr. GOLDBERG. Well, that is where we are now, yes, sir.

Senator MELCHER. Well, when we passed the 1981 farm bill, called the Agriculture and Food Act, late in 1981, we required then an effective price of 18 cents, did we not, for sugar in this country?

Mr. GOLDBERG. The loan rate did, yes.

Senator MELCHER. The loan rate did?

Mr. GOLDBERG. Yes, but the so-called market stabilization price was different, at that time roughly around 19 cents.

Senator MELCHER. Roughly around 19 cents?

Mr. GOLDBERG. In that period, yes.

Senator MELCHER. So beginning then at that time in 1982, since this bill was passed in December—I believe it says December 23, is that right?

Mr. GOLDBERG. The 1985 farm bill, yes.

Senator MELCHER. No. When did we pass the 1981 farm bill?

Mr. GOLDBERG. That was also December 23, coincidentally.

Senator MELCHER. Merry Christmas to everybody.

Mr. GOLDBERG. That must be a target date, Mr. Chairman.

Senator MELCHER. So in 1982, some different provisions then had to be provided by Presidential proclamation, I assume, and the Department of Agriculture implemented them, is that correct?

Mr. GOLDBERG. That is correct. Basically, what happened was that both your target and support levels reached a level so high

that the fees and duties could not cover the differential costs, and that is when the quotas were implemented.

Senator MELCHER. And so when you implemented those quotas, the duties and the fees had to make up the difference between the imported price under quota and the target price, or whatever we call the domestic, which you have said was around 19 cents?

Mr. GOLDBERG. That is right.

Senator MELCHER. Now, Mr. Goldberg, there is a great complaint from the cane refiners in this country that all during that year there was not any established regulations or rules, or whatever you want to call them, issued by the Department of Agriculture so the refiners knew where they were going to be on importing raw sugar and refining it and then exporting it.

I would like for you to explain to me why it took so long for these rules and regulations to come into effect.

Mr. GOLDBERG. Senator, I expected you would ask that question, and let me do this, if I may, with the permission of the chairman. It is fairly technical and quite complicated and complex, and what we would like to do, and we have it already prepared, is to submit our explanation in writing for the record because I am not expert enough and John here apparently has been through it enough times. What we would like to do is answer it in writing, if we may, and submit it for the record.

[The material follows:]

ACTIVITIES DURING MAY 5, 1982 TO JUNE 28, 1983

MAY 5, 1982 TO NOVEMBER 30, 1982

This is the period immediately following the establishment of restrictive quotas and leading up to Presidential Proclamation No. 5002, which authorized the importation of sugar exempt from quota provided that it is used for specified purposes, among them for refining and export. It has been asserted that this constitutes too long a period of time for authorizing such quota exempt programs. This assertion must be put in the proper context, namely, the other activities that were revolving during this period.

First, while the quotas were established on May 5, 1982, the quota program had yet to become fully operational. These quotas were required to meet the intent of the Agriculture and Food Act of 1981, namely, that sugar cane and sugar beet growers be supported at specified levels while avoiding forfeitures of sugar to the Commodity Credit Corporation. Under those circumstances, with the quota program not yet fully in place, it would have been improper and premature to begin developing programs which were exempt from the quota program. During this period the following development activities dominated program administration, all intent on maintaining the integrity of the quota program and the domestic price support program:

Five adjustments of the section 22 import fee;
Development/establishment of regulations for quota certificate program;
Establishment of quarterly quota for July 1982–September 1982;
Development/establishment of allocations and regulations for "other specified countries and areas";
Development/establishment of market stabilization price;
Establishment of specialty sugar import quota program;
Modification of quota period determination authority;
Establishment of country shipping patterns for quota sugar;
Establishment of the import quota on sugar for next quota period; and
Review of the operation of the sugar import quota program.

Subsequent to getting the quota program operational, it was possible to begin considering proposed quota exempt programs. This was done beginning in the Fall of 1982, and on November 30, 1982 a Presidential Proclamation authorizing such programs was issued.

DECEMBER 1, 1982 TO JUNE 28, 1983

The rulemaking process for development of the refined sugar reexport program was ongoing through this entire period. This involved a three step process, the first two steps involving solicitation of public comments, specifically from affected parties in the industry, concerning how the program should operate. There is first a Notice of Proposed Rulemaking issued in the Federal Register, followed by a Proposed Rule. The process ends with issuance of a Final Rule.

Each step of this process provides for a specific period of comment. In cases such as the refined sugar reexport program, these comment periods are generally as long as 60 to 90 days. This was shortened to 30 days in order to expedite the rulemaking process. Furthermore, once the comments are received they must be incorporated into the rule, requiring ongoing redrafting of the rule. In summary, rulemaking is no overnight process, especially for developing a program related to quota exempt sugar. The process is deliberately cautious in order to prevent the development of a rule which contravenes the interests of involved parties, in this case domestic sugar interests and the requirement that the Government avoid forfeitures of sugar.

Senator MELCHER. Well, I would like to have it in writing and submitted for the record, but I wonder if you would just like to summarize that and see if we can be sharp enough to follow all the ins and outs of it.

Mr. Nuttall, would you like to try to do that?

Mr. NUTTALL. Thank you, Mr. Chairman. If you take a look at this chronology back here, we were not authorized to conduct quota-exempt programs until a Presidential proclamation was issued on November 30, 1982.

Subsequently, we went through rulemaking procedures which, by June 28, 1983, were final and the program could become operational. I would point out that for the three quota-exempt programs that we have in place, this refined sugar reexport program is just one of three.

Each one of them, coincidentally, took about 6 or 7 months to get operational. There are commercial benefits to these. These are major types of rules and it is something that people have to be very careful on when they go through a drafting procedure. It was something that was the subject of a lot of discussion in the Wall Street Journal at one time.

Senator MELCHER. Is that the explanation? [Laughter.]

Mr. NUTTALL. The explanation, Mr. Chairman, is that these things cannot be drafted overnight without causing problems because the——

Senator MELCHER. Well, was it not——

Mr. NUTTALL. If I could continue?

Senator MELCHER. Yes.

Mr. NUTTALL. We wanted these programs implemented, but at the same time wanted to maintain the integrity of domestic price support operations. You have to understand we are allowing in sugar outside of quotas and quotas were one of the means of preventing cheap sugar from getting in the country and having the Commodity Credit Corporation end up with that sugar.

So we were establishing a legal hole in the quotas. It is called a quota-exempt program. You just had to be very, very careful in the drafting of those rules.

Senator MELCHER. Well, nevertheless, it was June 1983 before the final rule was adopted, was it not?

Mr. NUTTALL. Yes, sir.

Senator MELCHER. That is a year-and-a-half from the time of the passage of the bill.

First of all, let me take you back through that. Did it take a while to establish the quotas?

Mr. NUTTALL. The quotas, if you go down this chronology, were May 1982, and until that time we were still operating a duty and fee system, no quotas.

Senator MELCHER. Right.

Mr. NUTTALL. The world price was still at a level——

Senator MELCHER. You had to have the quotas as a result of the 1981 Farm Act, is that not right?

Mr. NUTTALL. I am not quite sure at that time what people were thinking, but I think the belief was that world prices were sufficiently high that they could support sugar producers at the required levels using duties and fees.

Senator MELCHER. Yes.

Mr. NUTTALL. The expectation was that there would not have to be quotas, and people turned out to be wrong.

Senator MELCHER. I see. Well, when was it established, then—was it established by May 1982 that there had to be quotas? I guess that is true because I see here in your chronology that the May 5, 1982, Presidential Proclamation No. 4941 establishes country-by-country import quotas.

Now, from the time you had established the quotas, it took until November 30, 1982, for the President to issue a proclamation that authorized the Secretary of Agriculture to promulgate regulations.

That is a rather long period of time, it seems to me. Is there any explanation for that delay?

Mr. NUTTALL. The period from May through November?

Senator MELCHER. Yes.

Mr. NUTTALL. Senator, I really do not know what the reason is for that length of time. I would suspect it took people some time before they realized the problems that certain people in the industry would face after we imposed restrictive quotas.

Senator MELCHER. I guess for the record we had better establish that you were not in charge of this program, were you?

Mr. NUTTALL. At that time, no.

Senator MELCHER. And, Mr. Goldberg——

Mr. NUTTALL. I would not want to blame anything on a predecessor or anything like that. I am saying that it took people some time to realize that certain segments of the industry would be helped by quotas and some would not, and it took them a while to figure out exactly what was needed to help out the adversely affected parties.

Senator MELCHER. And, Mr. Goldberg, you were not in your present position, but were you involved in this?

Mr. GOLDBERG. No, sir. It is fair to say that both Mr. Nuttall and I were not around in 1982, but that is not an excuse for explaining why the delay and why it took this length of time.

I think that Mr. Nuttall has tried to explain some of the problems that were faced in issuing those regulations and why it took the length of time that it did. To answer your first question, though, I was not involved.

Senator MELCHER. From either one of you: Do you think that this adversely affected the cane refiners?

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Mr. GOLDBERG. Do you mean the quota system?

Senator MELCHER. This delay.

Mr. GOLDBERG. I could not comment on that, Mr. Chairman. I really do not know.

Senator MELCHER. All right. Do you have any different opinion, Mr. Nuttall?

Mr. NUTTALL. Senator, this is the issue which we do have a rather lengthy written explanation of.

Senator MELCHER. Well, we will make that part of the record.

[The material follows:]

WHY THE REFINERS DID NOT CLAIM 1977/78 DRAWBACK

The refiners have in fact claimed drawback on duties paid during 1977 and 1978. They just have not claimed drawback on all of the duties and fees paid during this period. This amendment merely gives them access to those duties and fees paid during this period for which they have not claimed drawback. The reason they did not claim the remaining drawback is quite technical. It has to do with the domestic sugar program, the import quota on raw and refined sugar, the level of domestic and world sugar prices, and the quota exempt program for export of refined sugar.

The domestic sugar program mandated by the Agriculture and Food Act of 1981 went into effect on December 23, 1981. Import duties and fees were used in the initial stage of the program to raise the value of imported sugar to the domestic price level. Subsequently, there was not sufficient import fee and duty authority to raise the import price to the domestic price level. As a result, imported sugar would have been able to undercut domestic mandated support prices, leading to excess supplies which likely would have been forfeited to the Government. To prevent this from occurring, import quotas on raw and refined sugar were established in May 1982.

This ties into the refiners failure to file for the remaining 1977/78 duty drawback as follows: subsequent to the imposition of import quotas, with the domestic price so much higher than the world price, the domestic refiners were at a competitive disadvantage with foreign refiners. Being uncompetitive, they were unable to export sugar to the international market and thus had no exports for which they could claim this duty drawback. They convinced the Administration that this situation needed to be rectified, and on November 30, 1982, Presidential Proclamation No. 5002 was issued, authorizing, among other things, the Secretary of Agriculture to promulgate rules and regulations for the importation exempt from quotas raw sugar (at world prices) to be refined and exported as refined sugar. The program was initiated on June 28, 1983.

After the program was implemented, the refiners once again began exporting sugar and claiming drawback on the exports, including duties and fees paid during 1978 and following years. However, you will note that the so-called 5-year limitation (3 years to refine and 2 years to export) had by the time this program was implemented prevented their access to duties and fees paid prior to June 28, 1978. As a result, once the quota exempt program was initiated access to certain duties and fees was already prohibited.

However, it should be pointed out that the refiners could have claimed drawback on these duties and fees at any time leading up to the imposition of quotas in May 1982. Until that time, they had access to world price sugar and could be competitive on the world market. It should also be noted that since duties and fees are paid on all imported sugar, it would be rare to find all duties and fees claimed for drawback purposes. This is because we are net importers of sugar and thus never export enough sugar to use up all of the duties and fees paid on imports. In conclusion, the refiners had ample time to export the sugar in time to claim 1977/78 drawback but did not and in any event it would be unusual to find all duties and fees paid on imported sugar claimed for drawback simply because we never export enough sugar to claim drawback on all of these duties and fees.

Senator MELCHER. But if they were impacted by this delay, would not the beet sugar refiners be impacted also?

Mr. GOLDBERG. I would suppose so.

Senator MELCHER. Is there some reason why they are different at this stage?

Mr. NUTTALL. Very much so. This particular program, authorized finally by the rule issued June 1983, is for those who refine imported cane sugar.

Senator MELCHER. There is a difference at that stage?

Mr. NUTTALL. That is correct.

Senator MELCHER. And it could be, as the cane refiners assert, that they were adversely impacted at this stage because of the delay, but that adverse impact would not apply to beet sugar refiners?

Mr. NUTTALL. That is correct, Mr. Chairman.

Senator MELCHER. That is correct, all right.

Now, Mr. Goldberg, what you have testified to is that refiners, from 1977 on to the present, imported some sugar from abroad that duties were paid on. In refining that sugar, of course, the duties were part of the cost of the sugar, but the product went to the domestic market, and therefore the consumers here in the United States, paying the 19 cents for the sugar, also paid the duty, is that right, covered the duty?

Mr. GOLDBERG. Essentially, that is correct. In other words, I guess to use the vernacular they were made whole. In other words, the price they paid for the imported sugar, the duties and fees that they paid were added on to the retail price, so to speak, when the sugar was sold.

Senator MELCHER. They became part of the cost of the raw cane sugar?

Mr. GOLDBERG. That is correct.

Senator MELCHER. And it was then immediately passed on when it was sold on the domestic market, is that correct?

Mr. GOLDBERG. Yes, because the combination of the import price plus the duties and fees were essentially equivalent to what the market price was. So it was almost a wash, plus a processing fee.

Senator MELCHER. So there was not any buildup of some funds that the refiners had obligated themselves for available in the Treasury to draw back on the very sugar that they imported and then sold on the domestic market?

Mr. GOLDBERG. There is an accounting—I guess that is a fair way to describe it, an accounting procedure, Mr. Chairman, where a record would be made of duties and fees that would be paid and then collected back after that bookkeeping method.

You might address the Customs people. They are probably a little bit closer to the technical aspects of the thing, but essentially what you are saying is correct. There would be records of those fees and duties having been paid which would form, basically, as I understand it, the basis for their drawing back those fees and duties at the time that they sold the sugar.

Senator MELCHER. That situation we just described covers that period of time when there was a substantial amount of cane sugar imported, refined here in this country, and placed on the domestic market where the consumers actually, in paying the 19 cents, covered those import duties and fees.

Now, during that same period of time, were there situations where refiners imported some sugar that was not under quota, was not going to be destined for domestic consumption, but was going to be reexported?

Mr. GOLDBERG. Well, I think we have to point out, Mr. Chairman, that during the period of time that you are talking about—now, we are talking basically prior to 1982, in the late 1970's. There was not a quota.

Senator MELCHER. Let me make that straight, Mr. Goldberg. I am talking in general from the late 1970's right up to the present time. So if we want to talk specifically between, say, 1977 and 1982, that is all right with me, so let us talk about that period. There were quotas of about 4.5 million tons.

Mr. GOLDBERG. There were no quotas.

Senator MELCHER. Excuse me. There were no quotas. What happened during that period of time, then? Let us get these periods of time straight.

Mr. GOLDBERG. Well, that is the period of time where fees and duties were imposed on imported sugar——

Senator MELCHER. All right.

Mr. GOLDBERG [continuing]. For which cane refiners paid those duties and fees. Then they had a statutory period of time——

Senator MELCHER. All right. So during that particular period of time, let us say 1977 to 1982, do we know how much of that imported sugar subject to duties and fees was used domestically and how much was exported after it was refined?

Mr. GOLDBERG. I am going to let John Nuttall answer that one, Mr. Chairman.

Mr. NUTTALL. There were some practices of drawback during that period, specifically, I think 1980, 1979, that period, due to a so-called price spike in the world market, which encouraged our refiners to make use of the drawback funds to export and refine sugar.

On average, I would say that we are talking 4.5 million tons was imported on a net basis, but there were only a couple of instances over that period——

Senator MELCHER. Now, wait a minute. When you say 4.5 million tons imported on a net basis?

Mr. NUTTALL. That means excluding what might have been imported and then exported.

Senator MELCHER. All right. The 4.5 million tons was imported and used domestically?

Mr. NUTTALL. Right.

Senator MELCHER. All right. Now, during those years there were times when there was some imported, refined, and then exported?

Mr. NUTTALL. That is correct, Mr. Chairman.

Senator MELCHER. Do you know how much?

Mr. NUTTALL. One year it got up to 1 million tons, and I believe that was 1979 or 1980. Mr. Chairman, we could get you for the record actual figures, if that is what is needed.

Senator MELCHER. All right.

[The material follows:]

U.S. Exports of Refined Cane Sugar, Calendar Year and Fiscal Year
(in short tons, raw value)

Calendar Year	Quantity	Fiscal Year	Quantity
1977	21,736	1976/77	41,659
1978	10,101	1977/78	10,019
1979	12,960	1978/79	10,728
1980	596,640	1979/80	365,299
1981	1,013,639	1980/81	1,066,686
1982	48,787	1981/82	227,469
1983	214,779	1982/83	136,271
1984	308,078	1983/84	310,248
1985	395,841	1984/85	400,080
1986	483,878	1985/86	427,808
1987	NA	1986/87	502,458

NOTE: Until January 1, 1978 both refined and raw sugar were lumped together under the same category for purposes of tracking and reporting U.S. exports of sugar. As a result, in the above table, Calendar Year 1977 exports include raw sugar and Fiscal Year 1976/77 exports include raw sugar. Part of Fiscal Year 1977/78 is also raw sugar exports.

Senator MELCHER. Now, let us go beyond 1982.

Senator BOND. Mr. Chairman, may I ask on the million tons that was reexported during that time—were the duties and fees drawn back at that time?

Mr. NUTTALL. Yes. That was the incentive, Senator.

Senator BOND. So you are saying that during that period of time the cane sugar that was imported and then reexported, were the cane refiners unable to recover the cost of the duties and fees by sales at the higher price in the domestic market, according to the records available at the time, they were subject to drawback? Your position is that the cane refiners received these duties and fees on all refined sugar which was imported as raw cane sugar and then reexported?

Mr. NUTTALL. Senator, two things. If it was sold on the domestic market, duty and fee amounts effectively were recouped.

Senator BOND. Right, I understand that.

Mr. NUTTALL. If it was sold internationally for drawback purposes, the practice would be to import that sugar from a country for which you had to pay no duties—you might still have to pay a fee; all countries are subject to fees—and then drawback from a fund which might have been one of these larger amounts that is in here in the appendix to bring the price down and move the sugar internationally.

Also, as one example in the Under Secretary's testimony, there were times where you had duty and fee amounts in the vicinity of 6.8, 7 cents. So there was a profit incentive there, too, because the difference between the 7 cents and what they needed to compete internationally would be pocketed.

So we have two things. On the one hand, the practice domestically would recoup duty and fee costs if you sold that sugar on the domestic market. Internationally, the practice would be to bring the sugar in from a country for which you had to pay no duties, process and export it, and then claim the drawback.

Senator BOND. So you got more of the drawback than was actually paid in duties and fees. It is your contention that the refiners were able to get even at that time a drawback of a larger amount than they paid in duties and fees on the sugar that they imported, then refined and exported. Is that your position?

Mr. NUTTALL. That is correct, Senator.

Senator BOND. Thank you, Mr. Chairman.

Mr. NUTTALL. Maybe we could clarify a little bit.

Mr. GOLDBERG. I think, Senator, if I understand it correctly, my understanding, and I hope I am correct, is that whatever duties and fees they paid, that is the only amount that they can drawback. They cannot drawback something above whatever they paid in for the period in question. So if it was 6.8 cents, they get 6.8 cents back.

I think what Mr. Nuttall is alluding to is market conditions, of course, over the period of time can change and duties and fees could be slightly higher or lower, depending upon what the market situation would be. But, basically, they are only entitled to drawback what they put in.

Senator BOND. I thought Mr. Nuttall was saying that you imported it from countries where there was no duty and then got the full amount of the duty back on that reexported sugar.

Mr. GOLDBERG. That is correct, from those countries where it comes in duty free. All countries in those days were subject to the fee.

Mr. NUTTALL. That is correct.

Senator BOND. I think I have got two different——

Senator MELCHER. I think the point that Senator Bond is making is that if the sugar were imported from a duty-free country that actually the 6.8 cents was not paid in on that particular sugar, but in reexporting it the total combination of the duty and the fee could be drawn back, which was as high as 6.8 cents, and that, in effect, might have given a windfall profit for that particular export.

Mr. GOLDBERG. I think that is correct.

Senator BOND. Well, if we are together on that, is that your position now, because I understood two different things from Mr. Nuttall and Mr. Goldberg?

Mr. NUTTALL. That is what I intended to say, Senator. It may have come out wrong, but that is what I intended to say. Basically, Customs will keep track of what is paid on individual shipments that are brought into the country, but then when you go about the practice of exporting, you can pick from those various amounts paid in. In other words, as you are exporting, you take a look——

Senator BOND. So cane sugar is fungible and you sell it all on the domestic market at 19 cents and then you claim that the sugar that you reexport was sugar that you imported from the high-duty countries. So you wind up either getting the full price on the domestic market and then you claim as a drawback sugar that you imported from a dutiable country on the drawback.

Mr. NUTTALL. I will try again, Senator.

Senator BOND. I am sure we will get a different view later on in the testimony.

Mr. NUTTALL. If I was involved in the business of exporting refined sugar and claiming drawback, what I would do is make sure first of all that I am going to claim drawback that is large. I would claim the fattest drawback first, and also the drawback that is about to expire.

So you are going to look down your accounts and you are going to say, well, I have this real fat drawback that is about ready to expire and I am going to export this sugar today. I am going to claim that first because it is fat and it is ready to expire.

So it does not have to match up with any import duties and fees that you paid currently. You look at your accounts and you make sure that you are picking the drawback that is about to expire that is large that gives you the most return when you export the sugar.

You would also make sure that when you are importing sugar for refining and export that you are bringing it in from a country for which you had to pay the lowest amount of duties and fees. So there is a horizon here.

The choice of the matter is that some countries you pay duties on sugar and some countries you do not. Under this system, what you would choose to do is to bring in sugar currently that you do not have to pay duties and fees on and then claim big, fat duties and fees from the past that you paid on other sugar.

I do not know if that clarifies it, Senator, but——

Senator MELCHER. I think it clarifies it because that is legal.

Mr. NUTTALL. There is nothing wrong with it.

Senator MELCHER. As far as the law is concerned. [Laughter.]

After 1982—let us see; we passed that particular farm bill in December of 1981 and then there were not any new regulations out during 1982. What happened in 1982? Did exports drop?

Mr. GOLDBERG. I do not have a number.

Mr. NUTTALL. Mr. Chairman, what happened was that when quotas were established in May you ended up with a disparity between world and domestic prices subsequently that prevented refiners from exporting.

Mr. GOLDBERG. Mr. Chairman, you are correct. What really was exported, I think, ended in that year.

Senator MELCHER. All right. Did exports pick up in 1983?

Mr. GOLDBERG. No.

Senator MELCHER. 1984?

Mr. NUTTALL. Senator, as soon as the regulations issued allowing for quota-exempt imports—that was in June 1983—exports picked up again.

Senator MELCHER. All right, and did they pick up to about 1 million tons per year?

Mr. NUTTALL. It presently goes through at about ½ million to 550,000 tons a year.

Senator MELCHER. Did it ever pick up to 1 million? Did it ever get back to 1 million?

Mr. GOLDBERG. No.

Senator MELCHER. It never did, so it got back to around one-half million tons per year and stayed the same.

Now, one final question, because all too often around here we find out that what we do on one hand—and I am speaking about Congress—sort of creates a different situation on another hand. Is that not true in this case?

What year was it that we said to the Caribbean Basin countries we like you so much, we are going to allow you to send us raw cane sugar and you are not going to have any duty on it?

Mr. GOLDBERG. You mean what year did they get GSP recognition, I guess.

Mr. NUTTALL. Caribbean Basin Economic Recovery Act—I think that is August 1983.

Senator MELCHER. So about this same period of time, through a different act of Congress, we established this situation where you can import from the Caribbean Basin countries cane sugar and there would not be any duty on it. Is that correct?

Mr. NUTTALL. That is correct, Mr. Chairman.

Mr. GOLDBERG. That is correct.

Senator MELCHER. All right. Thank you very much.

Senator Bond.

Senator BOND. Thank you, Mr. Chairman. Very briefly, and we appreciate the time that you have taken, Mr. Goldberg, it is the Department's position that, really, the provisions in the trade bill, which were adopted on the floor or not tabled on the floor, really amount to an accounting fiction designed to assist the cane sugar refineries in the United States.

From your testimony, you indicate that with the quotas governmental action has significantly impaired the ability of the cane sugar refiners to operate, to be profitable, to provide jobs.

Mr. GOLDBERG. No question about it.

Senator BOND. What is the recommendation, then? The Department strongly opposes this. What does the Department recommend that we do to keep from trashing the cane refiners?

Mr. GOLDBERG. Well, first of all, let me say this, Senator Bond. The imposition of the quota system and the high support levels, of course, have severely impacted the capacity of the U.S. refining industry. That is not in question.

As to what we should recommend, absent giving them the money that has been asked for under the legislation, we feel that this amendment in the trade bill does not address the root problem, and the only clear solution, and we could debate how that might take place, is to reform the current sugar legislation which severely impacts their industry.

Senator BOND. Well, how quickly is that likely to be done? [Laughter.]

I mean, if the cane refining industry is dead, do they just stay on welfare until we get something passed?

Mr. GOLDBERG. Well, we do not think that throwing out hundreds of millions of dollars because—in other words, if you have bad legislation or legislation that is severely impacting an element of the industry, we do not think passing additional bad legislation, which this amendment would do, is the answer.

We still believe, the administration does, that we need new sugar legislation. We have a bill in Congress. Now, how soon it will pass, I cannot, you know, comment on that, and that is not really the—it is part of the issue, but it is not, you know, the purpose of the debate here this morning.

But if you ask me what is the solution, the solution is to change the sugar program.

Senator BOND. And the Department is recommending what specifically, get rid of the quotas?

Mr. GOLDBERG. The Department is recommending a substantial reduction; in simple terms, a reduction in the sugar support program, with a payout for adjustments over that period of time.

What has happened, of course, is that with the high support levels, your high fructose corn people have been able to come below that support level, siphon much of the domestic sugar business, as we all know, and made it impossible for refiners at those levels to bring in imported sugar and resell it in the world market. That is basically the problem.

As the quota gets reduced because of the so-called no net cost sugar program—in other words, where the Government is not supposed to take over sugar, with that quota being reduced, of course, that limits their ability to participate in the reexport program, and thereby reducing their capacity.

Senator BOND. Thank you, Mr. Goldberg. Thank you, Mr. Chairman.

Senator MELCHER. Mr. Nuttall, when did you first start working on this particular responsibility at the Department of Agriculture?

Mr. NUTTALL. Mr. Chairman, that was—I believe it was Christmas Eve, 1983. That is the official assignment.

Senator MELCHER. At the end of 1983 and, effectively then, 1984. And prior to that time, you were not connected with the sugar program?

Mr. NUTTALL. No, Mr. Chairman.

Senator MELCHER. And, Mr. Goldberg, with regard to your assignment within the Department of Agriculture, when were you first given the responsibility over aspects of the sugar program?

Mr. GOLDBERG. I went to work, Mr. Chairman, August 1, 1983, in my current job.

Senator MELCHER. And so from that point on, you were connected with this?

Mr. GOLDBERG. Well, I have been connected with the sugar program, but not this particular phase of it.

Senator MELCHER. How were you connected prior to that time with the sugar program?

Mr. GOLDBERG. You mean prior to 1983?

Senator MELCHER. Prior to August 1983.

Mr. GOLDBERG. I ran a grain company in West Fargo, North Dakota.

Senator MELCHER. Yes, but not within the Department?

Mr. GOLDBERG. No, no.

Senator MELCHER. Now, when you submit this information you are going to provide for the record, would both of you search through the files beginning in 1981, but especially during the years 1982 and 1983 and since then, and find what communication there might have been in the form of memorandums or telephone discussions, if you have that on record, between anybody in the Department in this particular case of the sugar phase of the Department's responsibility and the White House?

There are a lot of Presidential proclamations here. I am particularly interested in what memos or calls you might have had from the White House, Mr. Deaver, and others, and just what was said or written. I do not know whether you have that or not, but if you have it, I want it.

Mr. GOLDBERG. Mr. Chairman, we will search our files. I am not aware of those kinds of memos. That does not mean there are not any.

[The material submitted for the record can be found on pages 21, 22, and 23.]

Senator MELCHER. All right. Thank you very much.

Mr. GOLDBERG. Thank you.

Senator MELCHER. Richard Rosettie, Deputy Assistant Commissioner for the Office of Commercial Operations in the U.S. Customs Service.

Please proceed, Mr. Rosettie.

STATEMENT OF RICHARD R. ROSETTIE, DEPUTY ASSISTANT COMMISSIONER, OFFICE OF COMMERCIAL OPERATIONS, U.S. CUSTOMS SERVICE, WASHINGTON, DC; ACCOMPANIED BY DAVID GENCARELLI, DIRECTOR OF CONGRESSIONAL AFFAIRS, U.S. CUSTOMS SERVICE

Mr. ROSETTIE. Thank you, Mr. Chairman.

Mr. Chairman, Senator Bond, we appreciate the opportunity to express to you this morning the reasons why the Customs Service has opposed this sugar drawback bill.

I would like to start with a brief explanation of the concepts behind the current Customs drawback law.

An importer's right to drawback is as old as Customs itself. This right was established to relieve U.S. merchants, who imported merchandise, of import duties on unfinished commodities that they paid if they intended to export finished products made from these imported commodities, and all of that done within a reasonable time. More specifically, the drawback law establishes an importer's right to gain a refund of 99 percent of the duties paid on the importation of an unfinished commodity when and if the importer exports a finished product manufactured from that commodity and he files an application; all of that, again, in a timely manner. Over the years, the time periods within which a successful drawback applicant must accomplish these tasks have basically remained the same.

In 1953, the time within which an importer must, under substitution drawback, manufacture the finished product was expanded from 1 year to 3 years from the time of importation. Another time

limitation requires that the importer export the finished product within 5 years of importation. Finally, the third limitation requires that the drawback applicant file his application with Customs within 3 years of the export of the finished product. Importers have never had, since drawback rights were established, more than a total of 8 years to manufacture and export their products and then file their applications for drawback. Therein lies one of Customs major objections to this bill, the extension of the time limits.

VERIFICATION

With regard to verification, Customs record retention regulations call for retention of copies of consumption entries—those are the papers that are generated when the unfinished commodity is first imported—and drawback entries—those are the papers that are generated when the original consumption entries are designated for drawback subsequently—we retain those for 8 years from the time of importation. This reflects very precisely the importer's period of eligibility under present law. Customs duplicate records of both consumption and drawback entries older than 8 years are routinely destroyed, in accordance with the current law. This bill amends 19 U.S.C. 1313 (a) and (b) to expand drawback eligibility for sugar cane importers from a total of 8 years to 17 years—14 years from 1977 to 1991, plus the 3 years that the regulations provide to file a complete claim.

This bill thereby leaves Customs without its own copies of documents which are necessary to properly process thousands of drawback applications worth millions of dollars based on sugar consumption entries which were filed in 1977, 1978 and 1979, those years well outside the customary present statutory 8-year timeframe.

In the absence of any Government maintained documents, Customs must rely solely on incomplete copies of consumption entries and drawback entries provided by the drawback applicants in order to verify the sugar drawback claims.

Why is Customs reliance on its records so crucial? I hope the following discussion will explain this.

Raw sugar is classifiable under item 155.20, Tariff Schedules of the United States (TSUS), and it is dutiable according to its weight and its degree of sucrose, determined by a polariscopic test. The original consumption entry and the copy retained by the importer contain only estimates of the weight, polariscopic reading, and estimated duties deposited with Customs at the time of original entry. Inevitably, the estimates are changed for products like raw sugar at the time of final liquidation. The Customs liquidator notes these changes on the original consumption entry. That is the copy that is held in our possession. In addition, when a drawback entry is timely filed and a consumption entry is designated in whole or in part as the basis of drawback, the liquidator will retrieve the consumption entry and note on the original consumption entry that it was referred to the drawback unit. These important notations are not inscribed on the copy of the consumption entry retained by the importer. They are an internal process for the Customs Service.

Not having the Customs liquidator's notations on Customs copies of original consumption entries puts Customs officials at a disadvantage in the following ways:

One, the official cannot determine the actual amount of duty paid, as the importer's copy of the original consumption entry carries only estimated duties. This makes truly accurate implementation of the bill impossible.

Second, the official cannot determine whether the particular consumption entry in question has been partially or wholly designated for drawback at an earlier time. The official is thereby unable to prevent mistaken or fraudulent double recovery of duties.

The significance of this last point is best illustrated by an example. If an importer imports 100,000 widgets and exports 25,000 widgets, and files a drawback claim for the duty paid on the 25,000 widgets which were exported, Customs will debit the consumption entry by 25,000 to reflect the fact that the importer has 75,000 widgets of eligible drawback remaining.

It is clear that Customs first line of defense in its effort to prevent drawback fraud is the knowledge among potential drawback applicants that Customs has the ability to retrieve its original consumption entries from storage to verify the availability of duties for drawback, and thereby prevent overpayments. Indeed, without its own copies of these documents, Customs cannot even determine where mistakes may have been made in the drawback process by its own employees or those of the applicant.

As you know, Mr. Chairman, estimates of the dollar value of the drawback rights in question range anywhere from $265 million to $800 million. Customs, as an institution, is not at all confident of its ability, under the provisions of the bill, to protect the revenue of the United States in the area of sugar drawback.

Here, I would digress for a second from my prepared written submission, having had a chance to look at the submissions that others will be making subsequently. There are two areas for possible fraud or misstatement or erroneous recordkeeping in the drawback process.

One of those has to do with the export. Were the goods indeed manufactured? Were those goods exported? Were they exported in the right timeframes? Did they really leave the United States? All of those are areas where we have fraud in the past in the drawback program. They are areas where outside records from either the drawback claimants or others involved—shipping companies, et cetera, can be useful.

Quite obviously, we need to check with more than the person making the claim. Our concern with this bill is that those records for the shipping companies and intermediaries become very, very old, and that even though we see charts and panels ready to be presented and we see attached to other statements significant amounts of information that they can adduce, this is not the independent corroboration that we would look for in a difficult situation.

But on the second type of possible fraud related to drawback, we need to have our own records, the records that are held within the Customs Service that bear all of these technical notations, in order to be sure that we are not double paying.

To go back to my widgets example, we want to be sure that we do not have exported 150,000 widgets and we are paying drawback on all of that. The only way we can be sure that that will not happen is by the retention and the availability of our own records.

For 1977, 1978, and 1979, those records are already gone. Our ability to cross-check is very badly limited by the fact that in the routine process of business we have destroyed those records.

THE BILL AS PRECEDENT

With regard to the precedent that this bill would set, we are concerned that the bill could become a very powerful precedent for hasty expansion of drawback rights in other commodity areas.

The sugar industry was the pioneer in obtaining the passage of legislation authorizing substitution manufacturing drawback on the Tariff Act of 1930 (19 U.S.C. 1313(b), and the amendments thereto in 1953 which extended the time limitations on manufacture from 1 year to 3. In 1958, naturally enough, this law was amended, extending these two expansions of drawback rights to all industries. Should this bill become law, it would be very difficult to argue that other industries, such as steel, textiles, petroleum, pharmaceuticals, whatever, should be denied equal coverage.

SUMMARY

In summary, Mr. Chairman, I want to make it clear that I am not here to debate the notion of whether the sugar refining industry should receive Federal support for its efforts to export refined sugar. Our colleagues in the Department of Agriculture have been covering this. I am here, however, to state that this bill, as written and passed by the House and Senate, is imperfect in that it would force the Customs Service to distribute substantial sums of Federal dollars without adequate control or accountability. It would also force the Customs Service to divert investigative resources now devoted to Customs missions of commercial fraud detection and prosecution and narcotics interdiction into the prevention of drawback fraud. For these reasons, Mr. Chairman, I thank you once again for the opportunity to state Customs' strong opposition to the sugar drawback provisions of the omnibus trade bill. I will be glad now to answer your questions that you and Senator Bond may have.

[The prepared statement of Mr. Rosettie follows:]

STATEMENT OF RICHARD ROSETTIE

DEPUTY ASSISTANT COMMISSIONER

OFFICE OF COMMERCIAL OPERATIONS

U.S. CUSTOMS SERVICE

BEFORE THE

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION

AND STABILIZATION OF PRICES

UNITED STATES SENATE

NOVEMBER 16, 1987

Mr. Chairman and Members of the Subcommittee:

I am Richard Rosettie, Deputy Assistant Commissioner, Office of Commercial Operations, United States Customs Service. I appreciate the opportunity to express to you and the members of your Subcommittee the reasons the Customs Service opposes the Sugar Drawback Bill, Section 897, in the Omnibus Trade Bill (S. 1420).

Let me first explain the basic concept behind Customs drawback law.

An importer's right to drawback is as old as the Customs Service itself. It was established to relieve United States merchants of import duties on unfinished commodities if they intended to export finished products made from these commodities within a reasonable time. More specifically, drawback law establishes an importer's right to gain a refund of 99 percent of the duties paid on the importation of an unfinished commodity when and if the importer exports a finished product manufactured from that commodity and files a drawback application all in a timely manner. Over the years the time periods within which a successful drawback applicant must accomplish these tasks have generally remained the same.

In 1953 the time within which an importer must, under substitution drawback, manufacture the finished product was expanded from one year to three years from the time of importation. Another time limitation requires that the importer export the finished product within five years of importation. Finally, the third limitation requires that the drawback applicant file his application with Customs within three years of the export of the finished product. Importers have never had, since drawback rights were established, more than a total of eight years to manufacture and export their products and then file their applications for drawback. Therein lies one of Customs major objections to the Bill.

VERIFICATION

Customs record retention regulations call for retention of copies of consumption entries (generated when the unfinished commodity is first imported) and drawback entries (which are generated when original consumption entries are designated for drawback) for eight years from the time of importation, reflecting the importer's period of drawback eligibility. Customs duplicate records of both consumption and drawback entries older than eight years are destroyed in accordance with current law. The Bill amends 19 U.S.C. 1313 (a) and (b) to expand

drawback eligibility for sugar cane importers from a total of eight years to seventeen years, 14 years from 1977 to 1991, plus 3 years by regulation to file a complete claim. Customs record retention regulations can for retention of copies of consumption entries (generated when the unfinished commodity is first imported) and drawback entries (generated when original consumption entries are designated for drawback) for eight years from the time of importation, reflecting the importer's period of drawback eligibility. Customs duplicated records of both consumption and drawback entries older than eight years are destroyed in accordance with current law. The Bill thereby leaves Customs without its own copies of documents necessary to properly process thousands of drawback applications worth millions of dollars based on sugar consumption entries filed in 1977, 1978 and 1979--well outside the customary eight year time-frame.

In the absence of government maintained documents, Customs must rely solely on consumption entries and drawback entries provided by the drawback applicants to verify the sugar drawback claims.

Why is Customs reliance on its own records so crucial? The following discussion explains this.

Raw sugar is classifiable under item 155.20, Tariff Schedules of the United States (TSUS), and dutiable according to its weight and its degree of sucrose determined by a polariscopic test. The original consumption entry and the copy retained by the importer contain estimates of the weight, polariscopic reading and estimated duties deposited with Customs at the time of entry. Inevitably, the estimates are changed for raw sugar at the time of final liquidation. The Customs liquidator notes these changes on the original consumption entry. In addition, when a drawback entry is timely filed and a consumption entry is designated in whole or in part as the basis of drawback, the liquidator will retrieve the consumption entry and note on the original consumption entry that it was referred to the drawback unit. These important notations are not inserted on the copy of the consumption entry retained by the importer.

Not having the Customs liquidator's notations on Customs copies of original consumption entries puts Customs officials at a disadvantage in the following ways:

1. The official cannot determine the actual amount of duty paid as the importer's copy of the original consumption entry carries only estimated duties. This makes truly accurate implementation of the Bill impossible.

2. The official cannot determine whether the particular consumption entry in question has been partially or wholly designated for drawback at an earlier time. The official is thereby unable to prevent mistaken or fraudulent double recovery of duties.

The significance of this last point is best illustrated by an example. If an importer imports 100,000 widgets, exports 25,000 widgets, and files a drawback claim for the duty paid on the 25,000 widgets exported, Customs will debit the consumption entry by 25,000 to reflect the fact that the importer has 75,000 widgets of eligible drawback remaining.

It is clear that Customs first line of defense in its effort to prevent drawback fraud is the knowledge among potential drawback applicants that Customs has the ability to retrieve its original consumption entries from storage to verify the available duties for drawback and to prevent overpayments. Indeed, without its own copies of these documents, Customs cannot even determine where mistakes may have been made in the drawback process by its own employees or those of the applicant.

As you know, Mr. Chairman, estimates of the dollar value of the drawback rights in question range anywhere from $265 million to $800 million. Customs, as an institution, is not at all confident of its ability, under the provisions of the Bill, to protect the revenue of the United States in the area of sugar drawback.

The Bill As Precedent

Customs is rightfully concerned that the Bill could become a powerful precedent for hasty expansion of drawback rights in other commodity areas.

The sugar industry was the pioneer in obtaining the passage of legislation authorizing substitution manufacturing drawback on the Tariff Act of 1930 (19 U.S.C. 1313 (b), and the amendments thereto of 1953 extending the time limitations on manufacture from one year to three. In 1958, the law was amended extending these two expansions of drawback rights to all industries. Should this Bill become law, it would be more difficult to argue that other industries such as steel and textiles should be denied greatly expanded drawback eligibility.

SUMMARY

I want to make it clear Mr. Chairman, that I am not here today to debate the notion of whether the sugar refining industry should receive federal support for its efforts to export refined sugar products to overseas markets. I defer to my colleagues from the Department of Agriculture on that issue. I am here, however, to state that the Bill, as written and passed by the House and Senate, is imperfect in that it would force the Customs Service to distribute substantial sums of federal dollars without adequate control or accountability. It would also force the Customs Service to divert investigative resources now devoted to the Customs missions of commercial fraud detection and prosecution and narcotics interdiction into the prevention of drawback fraud. For these reasons, Mr. Chairman, I thank you once again, for the opportunity to state Customs strong opposition to the sugar drawback provisions of the Omnibus Trade Bill. I will be glad to answer your questions and those of your colleagues.

PATRICK J. LEAHY, VERMONT, CHAIRMAN
JOHN MELCHER, MONTANA
DAVID H. PRYOR, ARKANSAS
DAVID L. BOREN, OKLAHOMA
HOWELL HEFLIN, ALABAMA
TOM HARKIN, IOWA
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DAVID K. KARNES, NEBRASKA

United States Senate
COMMITTEE ON
AGRICULTURE, NUTRITION, AND FORESTRY
WASHINGTON, DC 20510-6000

October 28, 1987

The Honorable William von Raab
Commissioner of Customs
United States Customs Service
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

Dear Mr. von Raab:

As Chairman of the Subcommittee on Agricultural Production and Stabilization of Prices, I am writing to request that you appear before the Subcommittee on November 16, 1987 to present testimony regarding Section 897 in the Omnibus Trade Bill (S.1420).

I am aware of the concerns of your agency over Section 897, which would significantly extend the period of time under which U.S. sugar refiners would be eligible for drawbacks of duties and fees paid to the U.S. Treasury on imports of raw cane sugar. The Customs Service has made it quite clear that many of its own documents necessary for verification of sugar imports, exports and drawback transactions have been destroyed in accordance with existing law and regulation governing drawback claims. The refiners contend that they possess sufficient documentation to satisfy Customs' requirements for verification.

It is estimated that this extension of drawback claims could drain the U.S. Treasury of more than $265 million. Even so, there were no Congressional hearings on this issue prior to passage in the House and Senate. Therefore, I believe it is essential to establish a public record of the views of all parties concerned, the Customs Service and the Agriculture Department as well as the sugar refiners.

Preparatory to this hearing, I have requested and received from each of three sugar refiners documentation on a sugar importation covered by Section 897, which they believe would satisfy Customs in verifying a drawback claim. Please find enclosed copies of these submissions, along with an explanation

from each of the companies. It would be most helpful if you could provide to the Subcommittee as part of your testimony Customs' position on whether it could accept these documents for drawback verification.

In addition, I am requesting that you include in your testimony responses to the following questions:

1. If a refiner files a drawback claim, can Customs establish to its satisfaction that the claim or any portion thereof has not been paid before?

2. If Customs has destroyed relevant records, would a refiner's records duplicate Customs records; or, in processing such records, are there determinations which are annotated by Customs employees on the records held by Customs which are necesary for verifying a drawback claim?

3. What proof of claims problems do you foresee, should the new raw cane sugar drawback provision become law; and, in particular, would this new provision raise the potential for fraud and/or inappropriate and unjustifiable claims?

4. How does Operation Bittersweet relate to the extended time limitations in the Trade Bill?

5. What effect, if any, would the new drawback provision for raw cane sugar have on other drawback programs?

6. As a number of sugar refiners have ceased operations in recent years, does a potential or opportunity exist for refiners to buy up the "assets" of these defunct companies, including their records on imports, exports and drawback, and to use those records for drawback purposes?

The hearing will begin at 10:00 on November 16, 1987 in room 328A of the Russell Senate Office Building. Please provide the Committee with five copies of your testimony by close of business on November 12, 1987, and an additional 75 copies on the morning of November 13, 1987. Your testimony for submission into the record may be whatever length you deem appropriate. The Subcommittee would, however, appreciate your limiting your oral presentation to not more than five minutes in order to permit adequate time for questions.

Should you or your staff have any questions regarding the hearing, please have your staff contact James Michie, of my staff at 224-5364.

Thank you for your cooperation and assistance in this important matter.

Sincerely,

JOHN MELCHER
Chairman
Subcommittee on Agricultural
Production and Stabilization
of Prices

Enclosures

JM:jfm

Editor's Note.--The documentation from the Sugar Refiners can be found in the hearing record and documentation is also retained in the subcommittee file. Please refer to the contents for the Sugar Refiner's testimony.

You asked whether the Customs Service would accept documents submitted by three sugar refiners to support claims for drawback under Section 897 of the Omnibus Trade Bill (S.1420).

Generally, the documents consist of copies of the importers' consumption entries designated as the basis for drawback by drawback claimants, notices of liquidations or courtesy notices of liquidations (final determination of duties due), cancelled checks to show payments of any increased duties due, proof of exportations and others. These types of documents are routinely presented to Customs to support claims for sugar drawback subject to verification by Customs with the use of the original consumption entries retained by Customs.

Raw sugar is classifiable under item 155.20, Tariff Schedules of the United States (TSUS), and dutiable according to its weight and its degree of sucrose determined by a polariscopic test. The original consumption entry and the copy retained by the importer contain estimates of the weight, polariscopic reading and estimated duties deposited with Customs at the time of entry. Inevitably, the estimates are changed for raw sugar at the time of final liquidation. The liquidator notes these changes on the original consumption entry. In addition, when a drawback entry is timely filed and a consumption entry is designated in whole or in part as the basis of drawback, the liquidator will retrieve the consumption entry and note on the original consumption entry that it was referred to the drawback unit. These important notations are not inserted on the copy of the consumption entry retained by the importer.

The first line of defense in preventing drawback fraud is the ability of the Customs Service to verify the drawback entry with the use of its notations on the consumption entry. The verification confirms the availability of duties for a refund under drawback. More important, it prevents its designation beyond the final duties assessed at the time of liquidation of the consumption entry and further it prevents the designation of a consumption entry a second time around.

The statutory time limitations to designate imported merchandise, to manufacture articles, and to export articles for drawback under 19 U.S.C.1313(a) and (b) are applicable for all imported merchandise. Under section 1313(i), the completed manufactured articles for drawback must be exported within 5 years after the date of importation of the designated merchandise. This limits the designation for all imported merchandise to a 5 year period. The Customs Regulations require that a complete drawback claim must be filed within 3 years after exportation of the drawback articles. Thus, under our current time limitations, it is possible to take 8 years from the time of importation, manufacture, exportation, and the filing of a drawback claim. The Customs retention period for records, including consumption entries, is geared to the drawback time limitations. Generally, the consumption entries are retained by Customs for 5 years and are then sent to the Federal Record Centers for storage and destroyed 3 years later for a total of 8 years.

Section 897 of the Bill would extend the time limitation to designate imported duty-paid raw cane sugar retroactively to 1977 and extend the period in which the articles must be exported to the year 1991. Further, the Bill would eliminate altogether the time limitation for raw cane sugar under substitution drawback which requires that articles must be manufactured within 3 years after the receipt of the imported merchandise. Thus, the Bill would extend the time limitations to designate raw cane sugar for use in manufacture or production of articles exported for drawback from 8 years to 17 years (14 years from 1977 to 1991, plus 3 years to complete the claim for drawback). Original consumption entries will not be available for several of the most important years covered by the extensions in the Bill for verification purposes necessary to prevent overpayment and fraud.

Two of the three sets of documents submitted to you by the refiners, were submitted to Customs in the regional offices at Houston and Miami to support drawback claims. The drawback claim filed at Houston is dated August 19, 1981, and a consumption entry dated August 11, 1981, was designated as the basis for drawback. The documents were timely filed within the current time limitations and apparently presented no problems with verification by Customs. The claim for $1,842,858.66 was paid in full. However, at this point in time, Customs personnel are able to retrieve the drawback entry but are not able to retrieve the consumption entry. Presumedly, the consumption entry was returned to the port of importation at Galveston.

The drawback claim filed at Miami is dated September 19, 1981, and a consumption entry dated September 14, 1978, was designated as the basis for drawback. The documents included a copy of a cancelled check indicating that Customs made a payment for $935,253.38 on the basis of a partial designation of the sugar covered by the import consumption entry. The documents submitted to support the claim were also timely filed within the current time limitations and apparently caused no problems with verification by Customs. However, at this point in time, Customs personnel at Miami are not able to find a drawback entry for this claim or the consumption entry designated for drawback. Presumedly, the records have been destroyed.

The third set of documents includes a copy of an importer's consumption entry filed at the Port of New York dated October 15, 1979, a copy of a courtesy notice of liquidation of the consumption entry indicating an increased assessment of duty, and copies of cancelled checks showing payment of the estimated duties and the increased duties. Presumedly, a drawback claim was not filed in which this consumption entry was designated as the basis for drawback. Customs personnel at the New York Region were unable to find a record of a drawback claim in which the consumption entry was used to designate sugar for drawback. No information was available. Presumedly, the consumption entry dated October 15, 1979, was destroyed within the

current retention period. Accordingly, Customs is not in a position to accept these documents to support a claim for drawback under the provisions of the pending Bill unless we waive our first line of defense in the prevention of fraud.

We will respond to your other six questions in the order presented.

1. If a refiner files a drawback claim (under the pending Bill), can Customs establish to its satisfaction that the claim or any portion thereof has been paid?

The answer is no for designated duty-paid raw cane sugar imported in 1977, 1978, and 1979. As previously noted, under the law and regulations, Customs retains consumption entries for 5 years, then sends them to the Federal Record Centers for storage and destruction three years later. The consumption entries for those years will not be available for Customs to verify drawback claims. The ongoing destruction continues to extend the period of unavailability of consumption entries. Further, as a practical matter, it is difficult and time consuming to retrieve documents from the Federal Record Centers. It should be anticipated that many of the extensive number of consumption entries requested from the Federal Records Centers will not be found.

2. If Customs has destroyed relevant records, would a refiner's records duplicate Customs records; or, in processing such records, are there determinations which are annotated by Customs employees on the records held by Customs which are necessary for verifying a drawback claim?

A refiner does not have access to the original consumption entry filed with Customs by the importer. Customs personnel annotate on the original consumption entry documents the determinations for the sucrose in the sugar, and the final

assessment of duties at the time of liquidation. These notations are essential in verifying drawback claims. Further, Customs annotates a consumption entry when it is designated in whole or in part as the basis for drawback which prevents designation a second time around. Attached is a sanitized copy of a consumption entry designated as the basis for drawback with an explanation of the annotations by Customs personnel. Note the stamped notation "**TRANSFERRED TO DRAWBACK ACCOUNT NEW YORK NOV 5 1986.**" If this consumption entry is redesignated for drawback, the drawback liquidator in the region where the drawback claim is filed is on notice that the consumption entry was previously designated in whole or in part as the basis for drawback in the New York Region. The typed portions of the consumption entry would, of course, appear on the importer's copy of the consumption entry. However, the notations by the Customs Service essential for verifying drawback claims and preventing fraud **would not** appear on the importer's copy.

3. What proof of claims problems do you foresee, should the new raw cane sugar drawback provision become law; and, in particular, would this new provision raise the potential for fraud and/or inappropriate and unjustifiable claims?

Except for Operation Bittersweet, the drawback programs have been relatively free of fraud. This is primarily due to the procedural requirements of the Customs Regulations (19 Code of Federal Regulations, Part 191) for manufacturing drawback and the ability of the Customs Service to verify claims with the use of the original consumption entries designated for drawback. The regulations require an approved contract between Customs and the manufacturer or producer of articles for drawback. The manufacturer outlines all of the records that he promises to keep to substantiate compliance with the law and regulations. The Customs Service relies on

the records that the manufacturer promises to maintain. However, the drawback community is aware that the one important record maintained by Customs is the original consumption entry designated as the basis for drawback containing its notations to verify claims in the first instance and to prevent fraud. Further, the Customs service has the resources to conduct on site audits of the operations and record keeping of the manufacturers and if necessary to conduct formal investigations.

Operation Bittersweet involved the most extensive fraud investigation in the history of our drawback laws. Third parties gave refiner-claimants false exportation documents that were presented to Customs with the drawback entries. Fraud was committed with the use of false documents not in the control of the Customs Service. Fraud was not committed with the use of original consumption entries which are in the control of Customs. If it is known by the drawback community that Customs does not or may not have original consumption entries for verification, it would, of course, increase the potential for undetected fraud and the payment of inappropriate claims.

4. How does Operation Bittersweet relate to the extended time limitations in the Bill?

In one of the schemes uncovered by Operation Bittersweet, sugar refiners sold or delivered refined drawback sugar to brokers (third parties) for export and retained the right to claim drawback with the consent of the brokers. In many cases, the sugar was not exported as required by the drawback law, and the brokers gave false exportation documents to the refiner-claimants. The refiner-claimants filed the false export documentations with their drawback entries. Upon the discovery of fraud under Operation Bittersweet, the drawback claims of the refiner-claimants, even as innocent parties, were denied.

Section 1313(i), 19 U.S.C., requires that the completed manufactured articles for drawback must be exported within 5 years after the date of importation of the designated merchandise. Consumption entries filed in 1977, 1978, 1979, 1980, 1981, and 1982, which includes most of the years covered by Operation Bittersweet, are not eligible for designation for drawback under the current law. The extension of the time limitations in the Bill would permit the refiners to retroactively designate these consumption entries in an effort to recoup their losses due to fraud investigations under Operation Bittersweet. In addition, it may be anticipated that under the Bill the refiners will want to redesignate consumption entries which were previously designated in drawback entries supported by the fraudulent exportation documents.

It may be argued that the refiners were innocent parties and as innocent parties, they should be given drawback. The taxpayers are also innocent parties and between the interest of the government and the refiners, the interest of the taxpayers should prevail.

The Customs Service expended a great deal of its enforcement resources in Operation Bittersweet. The passage of this Bill would send a message to the drawback community that if by chance Customs uncovers massive fraud, as it did in Operation Bittersweet, there is a possibility that the laws may be changed to provide drawback claimants the means to recover their losses. Such a policy is not a deterrent to fraud nor an incentive to the Customs Service to extend its limited enforcement resources in the drawback area.

5. What effect, if any, would the new drawback provision for raw cane sugar have on other drawback programs?

The sugar and canning industries were the driving force for the substitution manufacturing drawback law first enacted as section 313(b) of the Tariff Act of 1930 (19 U.S.C. 1313(b), as amended). The time limitation in which to manufacture articles for export was limited to one year after the receipt of the designated imported merchandise and the time limitations in which articles had to be exported for drawback was within 3 years after the date of importation of the designated imported merchandise. The industry succeeded in obtaining amendments in 1953 which extended those time limitations to three years and five years respectfully. Amendments were also made to include other industries until finally in 1958, the law was amended to extend the privilege to all imported merchandise.

The sugar industry was the pioneer in substitution manufacturing drawback and continues to lead in the pursuit of obtaining further extension of the time limitations. Certainly, if the Bill becomes law, others such as the steel, textile, petroleum and the enormous chemical industries with all of their import-export and economic complexities will seek equal treatment.

6. As a number of sugar refiners have ceased operations in recent years, does a potential or opportunity exist for refiners to buy up the "assets" of these defunct companies, including their records on imports, exports, and drawback, and to use those records for drawback purposes?

The answer to this question is a qualified yes.

This question is apparently prompted by an article entitled "Further Thoughts On Duty Drawback: Projected U.S. Sugar Exports" by Donald Westfall, that appeared in the September 17, 1987 edition of F.O.Licht's International Sugar Report. The writer indicated that "cane sugar refiners still in business only hold a portion of the drawback paper still theoretically available. Some is held by refiners who are no longer in operation, like Revere and Godchaux-Henderson", and that this further limits the availability of drawback under the pending bill.

The Customs Service has maintained since the inception of the substitution manufacturing drawback law under section 313, Tariff Act of 1930, as amended, that the same legal person must use both the imported designated merchandise and the substituted merchandise in the manufacture or production of articles for drawback. Customs Service Decision 86-11, 20 Cust. Bull. 597 (1986), concerned a theoretically legal exception. It was held that Corporation A that purchased a Division of Corporation B, could designate as the basis for drawback imported merchandise manufactured by the Division, and Corporation A could thereafter use substituted merchandise in the production of articles for drawback even though Corporation A did not use imported merchandise in manufacture. This decision was based on the theory that Corporation A was a successor to the Division of Corporation B and therefore the same legal person.

A liberal interpretation of this ruling may permit a refiner to acquire the drawback paper of refiners no longer in operation.

ATTACHMENT

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE
NEW YORK, N.Y.

SEP 1 [redacted]

DRA - KS

Mr. Norman King
Drawback Bonds Branch
Office of Regulation and Rulings

Mr. King

Attached are:
(a) Drawback Entry # 86[redacted]
(b) Customs copy of CF 7501 for Consumption (Import) Entry # 83[redacted]
(c) SCI for above import entry
(d) Liquidation work sheet for above import entry

The broker's copy of the import entry (b), which I cannot furnish, would be identical except that it would contain only that information typed on it. It would not contain any other information (i.e. notaion indicating "transfer to drawback " and how many pounds, "shortage," "RR" and "REF"; all are needed for drawback payment.)

The broker's copy of SCI (c), if he had a copy, would not contain notations about change in polarity, landed pounds or duty and fee rates, all needed for drawback.

The broker would also not have access to (d), liquidation worksheet. This sheet shows exactly how much raw sugar was liquidated at what rate. As you can see on (d) for this import entry the broker's estimate would be off by $5,014.71 in duty.

To recap, needed information unavailable to the broker on his copy of the import entry would be;
(1) amount of raw sugar available (we keep track of this on a sugar card so they do not overclaim)
(2) polarity (determines the rate of duty and sucrose)
(3) rate of duty
(4) sugar fee (zero on this entry)
(5) total duty (and fee) paid (as a result of computing 1-4)

On this particular drawback entry, use of the broker's copy figures would result in payment of $46,528.08 in drawback versus the actual amount due of $45,979.22, and overpayment of approximately $550.00 on this one entry. The broker's copy of this import entry would undoubtedly be used for numerous other drawback claims.

Kevin S. Scott
(Acting) Head, Drawback Section
Residual Liquidation and Drawback Branch

REPLY TO: REGIONAL COMMISSIONER OF CUSTOMS, U.S. CUSTOMSHOUSE, NEW YORK, NEW YORK 10048

SEP 1 '87 14:33 US CUSTOMS NEW YORK PAGE.03

(A)

[redacted] INCORPORATED

OUR REF. 276 9

DATE 9/3/86

Acceierated Drawback

&/ [redacted]

ACCELERATED DUTY DRAWBACK PAYMENT REQUEST

WE HEREBY REQUEST ACCELERATED PAYMENT OF DRAWBACK UNDER THE PROVISIONS OF SECTION 191.72, CUSTOMS REGULATIONS.

ACCELERATED PAYMENT BOND (FORM 5) IS ON FILE WITH THE REGIONAL COMMISSIONER OF CUSTOMS IN NEW YORK FOR AN AMOUNT OF $4,000,000 DATED 7/8/86.

OUR CLAIM IS BASED ON THE FOLLOWING CALCULATION:

QUANTITY OF THE ARTICLE EXPORTED	1,622,171 LBS
DUTY PAID PER UNIT OF THE ARTICLE	2.062700 CENTS/LB
FEE PAID PER UNIT OF THE ARTICLE	0.000000 CENTS/LB.
TOTAL DUTY AND/OR FEE PER UNIT OF ARTICLE	2.062700 CENTS/LB
TOTAL AMOUNT OF DUTY AND/OR FEE PAID	$46,443.66
LESS 1%	$464.49
AMOUNT CLAIMED AS ACCELERATED DRAWBACK	$45,979.17

IMPORT ENTRY NUMBER(S) FOR THE DESIGNATED MERCHANDISE 83-156644-9

SIGNATURE [redacted] VICE PRESIDENT

SIGNATURE [redacted] VICE PRESIDENT

I, OFFICER OF POWER OF ATTORNEY, OF REFINED SUGARS, INC. DECLARE THAT, ACCORDING TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE PARTICULAR OF EXPORTATION STATED IN THIS ENTRY AND THE INVOICES OF EXPORTATION OR LADING ARE CORRECT, AND, THAT SUCH MERCHANDISE IS NOT TO BE RELANDED OR RE-IMPORTED TO THE UNITED STATES, NOR IS IT TO BE CONSUMED AS SUPPLIES OR STORES ON THE EXPORTING VESSEL OR CONVEYANCE. FURTHER, THE MERCHANDISE CONCERNED HAS NOT SOLD TO A DEPARTMENT, BRANCH, OR AGENCY OF THE UNITED STATES GOVERNMENT.

SIGNATURE [redacted]

NEW YORK NOV 6 1986

CERTIFIED FOR ACCELERATED PAYMENT OF $45,979.17 DRAWBACK SECTION 191.72 CUSTOMS REGULATIONS

09

SEP 1 '87 14:34 US CUSTOMS NEW YORK PAGE.04

(B)

[redacted]

BOX 283

Team #43

CONSUMPTION ENTRY

...ED ST...S CUSTOMS SERVICE

RECORD COPY C

CASHIER'S COPY C

This Space For Customs Use Only			This Space For Customs Use Only	
BLOCK AND FILE NO. / M.O.T. / MANIFEST NO.	Form approved O.M.B. No. 48-R0017.	ENTRY NO. AND DATE: JUN 16 1983 83 [redacted]		
FOREIGN PORT OF LADING / U.S. PORT OF UNLADING	Dist. and Port Code: 1001	Port of Entry Name: NEW YORK	GTB	Form Bond No. [redacted]

Importer of Record (Name and Address): [redacted]

For Account of (Name and Address): SAME

Importing Vessel (Name) or Carrier	B/L or AWB No.	Port of Lading	L.V. No. and Date
S/S SETTY-247.0	1	DOMIN	
Country of Exportation	Date of Exportation	Type and Date of Invoice	L.V. Form (Port)
DOMINICAN REPUBLIC 247.0 C 0 02		SCI 6-12-83	L.V. Cashier (Deliveries)
U.S. Port of Unlading	Date of Importation	Location of Goods—G.O. No.	L.V. Cashier (Deliveries)
NEW YORK	6-14-83	[redacted]	

MARKS & NUMBERS OF PACKAGES; COUNTRY OF ORIGIN OF MERCHANDISE (1)	DESCRIPTION OF MERCHANDISE IN TERMS OF T.S.U.S. ANNO. NUMBER AND KIND OF PACKAGES (3)	GROSS WEIGHT IN POUNDS (3a)	NET QUANTITY IN T.S.U.S. ANNO. UNITS (3b)	ENTERED VALUE IN U.S. DOLLARS (5)	T.S.U.S. ANNO. REPORTING NO. (4)	TARIFF OR T.S.U.S. RATE (6)	DUTY AND I.R. TAX (8) DOLLARS
	11200000 LBS BULK				NOT RELATED		
	RAW SUGAR						
	11200000#		11200000#	1991584.	155.2045	.02896875	324450.
	5000 LT						
	5080 MT				next chgs	1991584 146392	

LS #163 TRANSFERRED TO DRAWBACK ACCOUNT

NEW YORK NOV 5 1986 Transferred to Sugar Import Danel

11,158,570 LBS RAW SUGAR

[redacted] TOTAL /BULK)

$1991584.00

as 1991584.

c/o: 247.0

WHARF AND WEIGH (SAMPLE)

LIQUIDATED

NOV 04 1983

REFUND

ENTRY

S-LST-43

MISSING DOCU...

JUN 16 1983

REF

shortage

I declare that I am the [redacted] for customs purposes as shown above...

...pursuance of a purchase or agreement to purchase, I ... use in the declaration all the statements in the documents on the ... of this entry.

Printed

Read Carefully the Reverse Side Before Completing This Form — O.M.B. No. 48-R031

(THIS FORM DOES NOT REQUIRE CERTIFICATION BY A UNITED STATES CONSULAR OFFICER)

(C)

SPECIAL CUSTOMS INVOICE

U.S. CUSTOMS SERVICE

(Original only required for customs purposes)

I. THIS SECTION TO BE FILLED IN FOR EVERY SHIPMENT

1. How were goods obtained by exporter? By purchase or agreement to purchase ☒ By means other than a purchase ☐

DO NOT INCLUDE PURCHASE AND NONPURCHASE GOODS IN SAME INVOICE. USE SEPARATE INVOICE FOR EACH

2. Port (city and country) and date obtained by exporter	3. Name of exporting carrier	4. Date of shipment
HAINA, DOMINICAN REPUBLIC	M/V "BETTY"	JUNE 13, 1983

II. TO BE FILLED IN IF GOODS WERE PURCHASED OR AGREED TO BE PURCHASED

5. Name and address of seller: [redacted] SANTO DOMINGO, D.R.

6. Name and address of purchaser: [redacted] N.Y. 10005

7. Date order accepted

III. TO BE FILLED IN IF GOODS WERE NOT PURCHASED

8. Name and address of person from whom goods were obtained

9. Name and address of consignee: - U.S.A.

10. Date, time and place of direct shipment to U.S.

POLARISCOPIC TESTING

IV. THIS SECTION TO BE FILLED IN FOR EVERY SHIPMENT

(1) Marks and Numbers on Packages	(2) Number of Packages; Kind of Packages; Description of Goods	(4) Invoice Unit Price or Value	(5) Total Price (Net after Deductions) Including Packing Expenses	(6) Gross Weight in Kilos or Other Unit of Quantity
N/M N/N	5,000.000 BAGS RAW CANE SUGAR IN BULK OF 1983 CROP, EQUIVALENT TO 11,200,000 NET ENGLISH STANDARD POUNDS. "BASIS 96° POLARIZATION" (STEVEDORING COST $2.20 PER LONG TON)	PER 100# NET $17.782	$1,991,584.00	11,158,520 LBS LANDED

155.2045 2.9825 2.9825 2.9825

AC-391 (4/82)

(D)

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE
NEW YORK NEW YORK

LIQUIDATION WORKSHEET

Entry Number 1001 / 83 / [redacted] Liquidation used

Date of Entry _____ 1001 3

Currency Rate _____ Change _____

Value/Quantity	Rate	Remarks	Value/Quantity	Rate
11,158,520	0.02862703			

	Duty	Tax		Duty	Tax
Amount Paid	324,450.00	_____	Liquidated	_____	_____
Liquidated	319,435.29	_____	Re-Liq'd.	_____	_____
~~Increase~~/Refund	5014.71		Increase/Refund	_____	

84 020 4CC

Senator MELCHER. Mr. Rosettie, you have stated the position of Customs rather clearly. This provision that has become part of the trade bill was introduced as a bill. Were you consulted on this bill?

Mr. ROSETTIE. I am unaware of any consultation with us on this specific bill, sir.

Senator MELCHER. It is my understanding there were no hearings on it.

Mr. ROSETTIE. None we are aware of, sir.

Senator MELCHER. But were you aware of the bill?

Mr. ROSETTIE. We became aware of it in, I believe, the summer.

Senator MELCHER. Last summer?

Mr. ROSETTIE. No; this year, that this particular provision——

Senator MELCHER. This past summer?

Mr. ROSETTIE. With the retrospective provisions, we became aware this summer.

Senator MELCHER. And the provision then was in the Ways and Means Committee bill?

Mr. GENCARELLI. Senator, let me identify myself as David Gencarelli, Director of Congressional Affairs for the Customs Service.

The provision that you mention was introduced as a bill, actually, early this year. We were aware of the provision, and the chief counsel for Customs did comment on the provision in writing.

Senator MELCHER. To whom?

Mr. GENCARELLI. Basically, through the normal comment process, through OMB to the Hill.

Senator MELCHER. I see.

Mr. GENCARELLI. Comments, of course, are requested by all the agencies and we expressed our operational problems and difficulties with it at that time, as we did earlier in the last Congress on a similar provision.

Senator MELCHER. On a similar provision in the last Congress?

Mr. GENCARELLI. That is right.

Senator MELCHER. And so was the Ways and Means Committee aware of your opposition? I guess that is the point of my question.

Mr. GENCARELLI. Yes. The bill was sufficiently—in fact, the same comments, the very same written comments that were provided in the last Congress were provided through the process that I mentioned to the committees through the OMB.

Senator MELCHER. Both the Ways and Means Committee and the——

Mr. GENCARELLI. Ways and Means. That is where the provision was brought up first because they moved more quickly on the trade bill than the Finance Committee did. On the Senate side, the bill was provided to the committee as an amendment on the last day of the markup in the Senate Finance Committee in treating the trade bill.

Senator MELCHER. Had the Senate Finance Committee been made aware of Customs' opposition to the provision and the reason for it?

Mr. GENCARELLI. Yes, they were. In fact, the USTR representing the administration restated their objections strongly in the markup discussions. There is no substantive discussion at that markup, of course, of the item. The record problems—our problems with rec-

ordkeeping were mentioned, but there was no further substantive discussion.

Senator MELCHER. Mr. Rosettie, Customs is at a loss on how they could properly administer this, making sure that there was no mistake, error, or fraud?

Mr. ROSETTIE. That is correct. We are at a point now where many of the crucial records that we have internally, with regard to the import entries are destroyed, are gone, and many of the corroborative records that we have looked to from outside sources would have been destroyed in the ordinary course of those businessmen's practices.

So both of the places that we would look to support the claims that could arise under this bill are either difficult or impossible.

Senator MELCHER. Thank you.

Senator Bond.

Senator BOND. As I gather, Mr. Rosettie, when a refiner applies for a drawback, you do not require them to submit a document on which you then indicate the amount which has been claimed as a drawback. So you do not require them to present any documentation which you then note has been partially or in whole refunded in a drawback?

Mr. ROSETTIE. The way that it works, Senator, is that our internal records would be annotated in one way or another. Now, the claimant has to file a great deal of paperwork, but the inventory, if you will, or the ledger sheet that would reflect original import entries and decrementing them is kept internally in Customs, and it is exactly these records that are now gone, and that is what provides the opportunity for double claiming.

Senator BOND. So without any of those records, you say it would take a great deal of time and effort from people who otherwise ought to be looking at drug importation and other Customs laws?

Mr. ROSETTIE. Because of the amount of scrutiny we would have to give to drawback claims in the range of literally hundreds of millions of dollars, we would have to divert resources to do that, yes.

Senator BOND. Well, as a practical matter, if there is no way you can confirm them, you are better off just writing a blank check for whatever they submit, are you not?

Mr. ROSETTIE. It gets very close to writing a blank check when our records are destroyed. We are left at the mercies of whatever submissions are made.

Senator BOND. On the basis of what you see and the concern you have, would your Agency recommend that the President veto the Trade bill if this were included in it?

Mr. ROSETTIE. We would have to give strong advice through the Treasury Department that this is a very difficult provision, and the revenue consequences of it. We are not quite in the position to recommend vetoing, but we would have to give it——

Senator BOND. You would sure hint that way?

Mr. ROSETTIE. We would certainly say that we have a lot of trouble with it, sir.

Senator BOND. Thank you, Mr. Chairman.

Senator MELCHER. Thank you very much.

We will now hear from a panel representing the refiners: Nick Kominus, president of the U.S. Cane Sugar Refiners' Association; Robert Hanna, president and chief executive officer of the Imperial Sugar Company; William Sprague, president of Savannah Foods & Industries, Inc.; Andrew Ferrier, vice president of Refined Sugars, Inc.; and William Shanley III, president of Amstar Sugar Corporation.

That is five of you. I believe we have room for all of you at the witness table. All except one of you have rather lengthy statements. I read them all, but I would ask if it is possible for you each to summarize your statements. Of course, your entire statement with attachments in each case will be made part of the record.

Let us start out with Nick Kominus, of the U.S. Cane Sugar Refiners' Association. Nick is the president of it. Please proceed.

STATEMENT OF NICHOLAS KOMINUS, PRESIDENT, U.S. CANE SUGAR REFINERS' ASSOCIATION, WASHINGTON, DC; ACCOMPANIED BY SALVATORE CARAMAGNO AND ROBERT CASSIDY

Mr. KOMINUS. Thank you, Mr. Chairman and Senator Bond. I am accompanied by Mr. Salvatore Caramagno and by Mr. Robert Cassidy, both of whom will be prepared to respond to technical questions. Mr. Caramagno is a former Director in the Customs Service's Office of Regulations and Rulings, and Mr. Cassidy is a former trade counsel of the Senate Finance Committee, and a former general counsel of the Office of the U.S. Trade Representative.

We welcome this opportunity to appear here today to discuss the sugar drawback extension which is included in both the House and the Senate trade bills.

I regret that the chairman has left.

Senator BOND [presiding]. He will return shortly. You may proceed.

Mr. KOMINUS. I will come back to that part of my statement.

The drawback extension was first introduced in the Senate last year by Senator Russell Long, the former chairman of the Senate Finance Committee. It was reintroduced this year by Senator John Breaux.

The extension does not institute a new program. It merely extends an existing arbitrary deadline for applying for a Customs refund. In so doing, it violates no international trading rules. The right to the refund is nearly as old as the Republic, and despite what was said by the gentleman from Customs, at one time there was no time limit whatever.

The drawback extension is of paramount importance to the survival of the cane sugar refining industry, which is being destroyed by the Government's sugar policy.

Since 1981, six companies have gone out of the refining business, eight refineries have closed, the industry has lost one-third of its capacity, and thousands of people have lost jobs. Moreover, approximately one-third of the industry's capacity is unused today. Unless the drawback extension is adopted, more refineries will close and more jobs will be lost.

The Government's sugar program itself cannot function properly without a viable refining industry. Sugarcane producers depend upon refiners to buy their crops.

The refiners' problems are rapidly becoming a problem for other segments of the sugar industry, including the beet sugar industry. The sugar program is in serious trouble.

Sugarcane and sugar beet producers are exploring ways to modify the program. There is no simple solution. As a practical matter, it probably will not be possible to amend the program until the farm bill comes up for reconsideration in 1989 or 1990.

The refining industry cannot wait that long. Unless something is done to meet the needs of refiners, the sugar program could self-destruct.

The drawback extension would permit refiners to utilize excess capacity and thereby avoid serious financial losses or bankruptcy. Hopefully, it would also permit them to continue to pay sugarcane producers the Government-mandated price for sugar.

Most sugar producers appreciate the problems of the refining industry, and recognize the importance of keeping it healthy. They endorse the extension. For that matter, the inequities that have been heaped upon the industry by the Government have generated an unprecedented spectrum of support. In addition to producers, the extension is supported by corn refiner, sugar user, labor, and consumer groups.

Mr. Bond USDA's statement that the extension will harm the beet sugar industry is nonsense. Traditionally, an insignificant amount of beet sugar is exported. The domestic beet sugar industry is not opposed to the extension. For that matter, for Senator Melcher's benefit, both beet companies that operate in Montana support the extension.

Neither has the Congress been unattentive. The conferees to the 1985 farm bill duly noted the plight of the industry. The conference report stated, and I quote, "Since cane refiners play an important role in the domestic industry, the conferees are concerned that cane sugar refining capacity should not be further impaired."

The report went on to urge the Secretary of Agriculture to continue a reexport program for sugar. The only practical way to continue exporting is to extend the drawback deadline. The refund is needed to compete with heavily subsidized sugar exports from the European Community.

The EC sugar export subsidy is a serious problem. In June 1982, the President, by official memorandum published in the Federal Register, directed the Trade Representative to deliberate with the EC to eliminate or reduce its harmful export subsidies. Five years have passed and the Trade Representative has failed to get anywhere with the European Community.

In his memorandum the President noted, and I quote, "U.S. exports of refined sugar which were expanding in 1980 and 1981 have fallen sharply." Exports averaged nearly 1 million tons a year in 1980 and 1981. In subsequent years, because of the EC's policy, they have dropped off to around 400,000 tons a year. If the drawback extension is not adopted, exports will drop to near zero next year.

Ironically, if the extension is not approved, the EC will benefit further and the developing nations will suffer. Contrary to USDA's statement, the extension will exert upward pressure on the world price of raw sugar, and the extension is supported by the CBI sugar group.

The administration's opposition to the drawback extension is unjustified. As I mentioned earlier, its concerns over verification are unfounded. Refiners have detailed business records of their transactions which have been compiled on a day-to-day basis. The data contained in these records can be corroborated by the records of independent third parties such as testing laboratories, public weighers and samplers, and shipping companies.

The available information will allow the Customs Service to verify drawback claims by the use of regulatory audits. Use of audits by the Customs Service to verify claims of this nature is routine. Audits are the preferred system of verification provided for in Customs regulations.

Despite the Customs Service's protestations, enactment of the proposed extension will have no significant impact on Customs manpower or workload.

In order to attract attention, the administration has exaggerated the amount of the refund. It is telling everyone that the refund could cost up to $800 million. This is preposterous. Refiners do not have anywhere near that amount of drawback available.

The members of the Association have informed our accountants that they have $402,142,000 still available. Of that total, they estimate that the most they could possibly apply for, under the best of circumstances, is $304,863,000.

Ironically, earlier this year the administration did not hesitate to propose spending well over $1 billion on a dubious plan to change the sugar program, and that, Senator Bond, is the program that, as you suggested, is going nowhere.

The administration has also stated that the extension presents a potential for fraud. Refiners have been victims of fraud, not perpetrators of fraud. Fraud is, of course, possible under all Government programs and this is no excuse for opposing the extension.

The administration's opposition is difficult to understand. I believe, Mr. Chairman, that it opposes the extension for the same reason that it ignores your letter urging it to stop the flood of sugar containing products from Canada which are circumventing our sugar import quotas and undermining the sugar program.

I believe it wants to administer the sugar program in the worst possible way, in the hope that so much injury will be inflicted upon so many innocents that the masses will rise and demand that the sugar program be terminated. This is the only way I can explain the administration's attitude. I might add that those beliefs are shared by many others in this city.

Numerous proposals have been advanced in recent months to help the refining industry. The administration has rejected proposal after proposal.

It even went so far as to sell CCC sugar to Red China at discount prices, rather than permit refiners to buy it, or refine it for export.

Mr. Chairman, I am very pleased that you asked the Department to provide some sort of an explanation for the 14-month delay in

issuing the reexport regulations. The regulations encompass 4½ pages in the Federal Register. They are not complex.

We had a reexport program for sugar under the old Sugar Act for 40 years. My members hounded me for 14 months, and I respond to my members, and I hounded Mr. Nuttall's predecessor in the Department for 14 months. I never got an explanation for the delay, so I am anxiously looking forward to reading that statement.

The other victims of this ill-conceived policy are the sugar exporting nations, which include our friends in Latin America, the CBI, and the Philippines.

Mr. Chairman, I have to skip around a bit. When you were absent, I had a couple of things I wanted to say, one of which was that I welcome, and we all welcome the opportunity to appear here today to discuss the sugar drawback extension.

Mr. Chairman, despite your opposition to the extension, I appreciate your statements on the Senate floor expressing a desire to meet the needs of refiners, and I regret that the administration has no such inclination.

Mr. Chairman, when you were out, I responded to something that the USDA said. They indicated that the extension would harm the beet sugar industry, and that is nonsense. Traditionally, an insignificant amount of beet sugar has been exported. The domestic beet sugar industry is not opposed to the extension and, for that matter, both beet companies that operate in Montana support the extension.

In conclusion, Mr. Chairman, the sugar drawback extension is fair and it is justified. The administration's opposition to it is completely unjustified.

Thank you.

[The prepared statement of Mr. Kominus with attachments follow:]

STATEMENT OF NICHOLAS KOMINUS, PRESIDENT
U.S. CANE SUGAR REFINERS' ASSOCIATION
BEFORE THE SUBCOMMITTEE ON AGRICULTURAL
PRODUCTION & STABILIZATION OF PRICES
SENATE COMMITTEE ON AGRICULTURE, NUTRITION & FORESTRY
November 16, 1987

Mr. Chairman, my name is Nicholas Kominus. I am the President of the United States Cane Sugar Refiners' Association. Our office is located at 1001 Connecticut Avenue, Washington, D.C. 20036.

I am accompanied by Mr. Salvatore Caramagno and Mr. Robert Cassidy, both of whom will be prepared to respond to technical questions. Mr. Caramagno is a former Director in the Customs Service Office of Regulations and Rulings, and Mr. Cassidy is a former Trade Counsel of the Senate Finance Committee, and a former General Counsel of the Office of the U.S. Trade Representative.

Our Association represents all of our nation's independent cane sugar refiners. A list of the refiners for whom I appear is attached to this statement.

Independent cane sugar refiners refine raw cane sugar that is produced in the United States, and that which is imported from abroad. They are not involved in the production or processing of sugarcane.

The members of our Association operate eleven refineries in eight states -- Florida, Georgia, Louisiana, Maryland, Massachusetts, Missouri, New York, and Texas.

We are the oldest segment of the sugar industry in the United States, dating back to Colonial times. At no time during the past three hundred years has the future of the industry been in more serious doubt.

I, therefore, welcome the opportunity to appear here today to discuss the sugar drawback extension.

The drawback extension was first introduced in the Senate last year by Senator Russell Long, the former Chairman of the Senate Finance Committee. It was reintroduced this year by Senator John Breaux.

The extension does not institute a new program. It merely extends an existing arbitrary deadline for applying for a Customs refund. In so doing, it violates no international trading rules. The right to the refund is nearly as old as the Republic, and at one time there was no time limit whatever.

Under the Tariff Act of 1930, the Treasury refunds 99 percent of any duty or fee paid on imported sugar, if an equivalent quantity of sugar is exported. This refund is referred to as "drawback."

In order to be eligible for drawback the sugar has to be processed within three years, and exported within five years. Section 875 of the House trade bill, H.R.3, and Section 897 of the Senate amendment to H.R.3, waive these deadlines on sugar entered after October 31, 1977 and before April 1, 1985, provided that the sugar is exported before October 1, 1991.

Sugar import fees were in force from November, 1977 through March, 1985, which is the period covered by the extension. The

new deadline, October 1, 1991, is the expiration date of the sugar program under the 1985 farm act.

The drawback extension is of paramount importance to the survival of the cane sugar refining industry, which is being destroyed by the Government's sugar program. The program drastically limits the volume of sugar refiners can market in the United States, and thereby inhibits its ability to compete.

Since the program was adopted in 1981, six companies have gone out of the refining business, eight refineries have closed, the industry has lost one-third of its capacity, and thousands of people have lost jobs.

When the Administration came to office in 1981 with its so-called "market oriented" approach to agriculture it opposed continuation of a sugar program. The Administration summarily rejected a proposal for a moderate program, which was advanced by the refiners and sugar users. It solicited the support of refiners, and others, to help it oppose a sugar program. It wanted no program whatever.

In the spring of 1981, the Administration abruptly reversed itself and agreed not to oppose a sugar program in order to get Congressional support for its tax and budget proposals.

Once the program passed the Congress, the Administration proceeded to administer it in an overly protective manner. It rejected numerous proposals to administer the program in a more equitable way.

When the Administration imposed sugar import quotas in May, 1982 it failed to provide for the refiners' export business. Regulations to permit refiners to import sugar for refining and re-export outside of the quota system were not published until June, 1983. As a result exports dropped.

In succeeding months, the problems of refiners began to intensify. Imports dropped and refineries closed. In 1985, the Administration adopted an extreme position on sugar and its proposal was ignored on Capitol Hill.

At that time, some members of the House Agriculture Committee suggested that refiners develop a plan that would be compatible with the sugar program. It was proposed that the refining industry maintain its capacity through exports.

The Conferees to the 1985 farm bill duly noted the plight of refiners. The conference report stated: "Since the cane refiners play an important role in the domestic industry, the Conferees are concerned that cane sugar refining capacity should not be further impaired. To assure refineries of supplies to permit efficient operations, the Conferees encourage the Secretary to use authority contained in Section 22 to impose import fees and to continue a properly supervised import-reexport program for sugar." The conference report encouraged refiners to pursue the drawback extension. The only practical way to continue exporting is to extend the drawback deadline.

The refund is needed to compete with heavily subsidized exports from the European Community. The EC subsidies are a serious problem. In June, 1982, the President, by official memorandum published in the Federal Register, had directed the Trade Representative to deliberate with the EC to eliminate or reduce its harmful export subsidies. Five years have passed and the Trade Representative has failed to get anywhere with the EC.

In his memorandum, the President noted that "U.S. exports of refined sugar, which were expanding in 1980 and 1981, have fallen sharply." Exports averaged nearly one million tons a year in 1980 and 1981. In subsequent years, because of the EC's policy, they have dropped off to around 400,000 tons a year. If the drawback extension is not adopted, exports will drop to near zero next year.

Zero exports will force more refineries to close and more people to lose jobs.

The Government's sugar program itself cannot function properly without a viable refining industry. Sugarcane producers depend upon refiners to buy their crops.

The refiners' problems are rapidly becoming a problem for other segments of the sugar industry, including the beet sugar industry. The sugar program is in serious trouble.

Sugarcane and sugar beet producers are exploring ways to modify it. There is no simple solution. As a practical matter, it probably will not be possible to amend the program until the farm bill comes up for reconsideration in 1989 or 1990.

The refining industry cannot wait that long. Unless something is done to meet the needs of refiners, the program could self-destruct.

The drawback extension would permit refiners to utilize excess capacity and thereby avoid serious financial losses, or bankruptcy. Hopefully, it would permit them to continue to pay sugarcane producers the Government-mandated price for sugar.

A complete anaylsis of the economics of the drawback extension, which was prepared by the economic consulting firm Abel, Daft, and Earley, is appended to this statement.

Most sugar producers appreciate the problems of the refining industry, and recognize the importance of keeping it healthy. They endorse the extension. For that matter, the inequities that have been heaped upon the industry by the Government have generated an unprecedented spectrum of support. In addition to the producers, the extension is supported by corn refiner, sugar user, labor, and consumer groups (see the attached list).

Administration concerns over the verification of drawback claims are unfounded.

The stated purpose of the provisions relating to drawback on raw cane sugar is to enable refiners to continue to export refined sugar to the world market with benefit of previously expired drawback.

According to the materials issued to the public by the United States Customs Service, "the purpose of drawback is to promote in the United States economic activity resulting in the exportation of articles or merchandise. For manufacturing drawback, the economic activity is manufacturing and commerce." Thus, the purposes of the proposed provisions are harmonious with the purposes of already extant drawback provisions in the Tariff Act of 1930 (19 U.S.C. §1313).

The proposed legislation does not seek to alter the basic drawback scheme as it appears in present law. It seeks in the case of raw cane sugar only to extend the time limits during which the benefits of drawback will be available to refiners.

The objections raised by the Administration to the drawback extension find their roots in alleged administrative difficulties which will be encountered by the Customs Service if the provisions are enacted. It is alleged that for part of the extended drawback period (in general the year 1977) the Customs Service does not have complete records available concerning the importations of raw cane sugar against which claims for drawback will be made by the refiners. Further, the records which the Customs Service has available can be retrieved only with great difficulty. This, along with the requirement to maintain records for extended periods will require the diversion of significant manpower and other resources which the Customs Service believes should be devoted to programs which have been assigned higher priorities. In the opinion of the Customs Service, corroborative evidence to verify the refiners claims for drawback, if not impossible to obtain, can be obtained only with great difficulty and expense.

This is not the case. Documents distributed by the Customs Service state:

> "What has to be established for drawback is basically very simple. It usually amounts to proof of an importation, of a manufacture or the maintenance of same condition, and of an exportation. What adds complexities is the need to prove identity and conformity within required time frames."

The refiners and other parties to the transactions involved herein have maintained copies of original records prepared in the ordinary course of business which will adequately support claims for drawback. These records are available for the earliest years to which the proposed legislation applies. Maintenance of these records is required by Part 191 of the Customs Regulations (19 C.F.R., Part 191). There is no reason to presume that records are suspect simply because they are in the possession of private parties involved in Customs transactions rather than in the possession of the Government.

The Customs Service relies on records of importers and other third parties on a day-to-day basis to determine the regularity of Customs transactions. These records in part consist of invoices used to determine Customs values and shipping documents to determine the date of exportation, freight, insurance, etc. Such information is essential to the proper assessment of customs duties. Claims for full or partial exemptions from duties for American goods returned or for goods produced abroad with the use of United States components or materials are supported by documents in the possession of importers. These may or may not be examined at some period after importation or during routine regulatory audits conducted by the Customs Service. Use of regulatory audits to verify the public's compliance with Customs and related laws, including drawback statutes, is routine in the Customs Service.

Examination of Part 191 of the Customs Regulations covering drawback compel the conclusion that, notwithstanding protestations of the Customs Service, verification of drawback claims is accomplished by audit of the claimants records and not by examination of documents in the possession of the Customs

Service. Part 191 sets forth the records which must be maintained by all parties to drawback transactions. "Verification" is defined in Section 191.2(o) of the regulations as:

> "Verification. 'Verification' means the examination of any and all records, (see §162.1a(a) of this chapter), maintained by the claimant, whether or not specifically described in the claimant's proposal, which are required by the regulatory auditor to render a meaningful recommendation concerning the drawback claimant's conformity to the law and regulations and the determination of supportability, correctness, and validity of the specific claim or groups of claims being verified. Verification also includes a determination that the exported product was produced in conformity with the drawback manufacturing process, as described and approved in the claimant's proposal."

Section 191.10 of the Customs Regulations describes how and where verification shall take place. It shall take place where the claimant's records are maintained. The verification is to be conducted by a Customs Regional Audit Division under the jurisdiction of the regional commissioner of customs in whose region the claim is filed. Section 191.10 also provides for the method of verification, the postponement of liquidation of drawback claims during the verification process, etc.

If corroboration of the claims by comparison to records in the possession of the Customs Service is required, such a conclusion cannot be derived by examination of the Customs Service's regulations. It is clear from the Customs Regulations that verification of drawback claims is to take place by examination of the claimant's records. The Customs Service's insistence on corroboration of refiners' drawback claims by comparison to records in the possession of the Customs Service is inexplicable in view of the Service's own regulations.

Sugar refiners have copies of the following Customs forms for the entire period to which the proposed drawback provisions apply:

1. Consumption entries which were filed with the Customs Service after the raw sugar was imported. These will indicate the quantity of sugar imported and the amount of customs duties deposited;
2. Drawback entries which will demonstrate the amount of drawback that has been previously claimed against specific consumption entries;
3. Certificates of delivery and certificates of manufacture and delivery which will trace the movement of sugar between parties to a particular transaction.

In addition, the refiners have available refinery abstracts which show in detail the amount of refined sugar produced and which also reference the applicable consumption entries covering the raw cane sugar from which the refined sugar was produced. The refiners also have shipping records available which show the amount of refined sugar sold domestically and the amount of such sugar sold for export.

The records of the refiners can be corroborated by the records of: 1) the vendors of the raw sugar which was covered by

the consumption entries; 2) the independent testing laboratories which test each cargo of raw sugar when it is entered; 3) the public weighers and samplers who weigh and sample each cargo of raw sugar when it is entered; and 4) the independent shipping companies which transport the refined sugar for export and which file detailed reports with the United States Government.

The accuracy of the refiners' records could be determined by the Customs Service by simply comparing the refiners' records for more recent years with the Customs Service's own records for such years. In addition, the refiners' records could be compared with the governments own statistical records of sugar imports and exports.

The copies of Customs forms and other documents maintained by the refiners are generated in the ordinary day-to-day course of business. The refiners' accounting procedures and controls are in accordance with generally accepted accounting priciples. Data generated in accordance with such principles is routinely accepted by the Customs Service for valuation purposes. Indeed, under the law, its acceptance is mandated.

If under the proposed legislation the Customs Service were to be dissatisfied with or unsure of the data or claims for any particular drawback entries submitted by refiners it would still have the prerogative to ask for futher information, if that information is available, or to accept supporting affidavits furnished by appropriate employees of the refiners.

Insofar as future exports are concerned, refiners are already operating under a procedure established under the United States Department of Agriculture's Re-export License Program which was revised to address problems identified by the Customs Service in its investigations relating to violations of the Customs laws by certain parties seeking drawback with respect to sugar exportations. In addition to the documents required by the United States Customs Service to substantiate exports the refiners must obtain for each importation, a signed United States Customs Form 7512 on which a representative of the United States Customs Service certifies that he or she has observed the exportation of the refined sugar in question.

Concern has been expressed by the Customs Service because some exportation and claims for drawback with respect to sugar have been made in violation of customs laws which have led to the imposition of penalties and, in some instances, criminal prosecution. The Customs Service, however, observes that there were no refiners involved in these penalty matters. The truth of the matter is that the sugar refiners were themselves the victims of whatever customs frauds were perpetrated. They should not now be punished for matters in which they had no involvement and over which they had no control.

Concern has also been expressed by the government, that enactment of the proposed provisions would give sugar refiners an unfair advantage vis-a-vis those in other industries who also take advantage of the drawback provisions contained in the customs laws. This is simply not true. Enactment of these provisions would give to sugar refiners, a privilege with respect to the time in which to obtain drawback which would not be afforded to other industries. It does not, however, give sugar refiners any advantage over those other industries. Sugar

refiners do not compete with the manufacturers and exporters of steel, automobiles, etc. These other exporting industries have not been subjected to the burden of the existing import quota to enable the U.S. Government to avoid funding the cost of a public crop support program.

Enactment of the proposed provisions would not have a major impact on the Customs Service or its personnel. Procedures such as regulatory and post-importation audits are already in place in the Customs Service and are used on a routine basis to determine compliance on the part of importers and others who deal with the Customs Service. The sugar refiners should be allowed to fall into the mainstream of customs practices and obtain the benefits of those practices.

Sugar refiners should not be deprived of an opportunity to compete in the world market because of exaggerated and largely imagined potential problems which would allegedly result in the administration of customs and related laws if the proposed drawback provisions are enacted. The administration of these laws by the Customs Service moves routinely on a day-to-day basis and will not be affected significantly by the enactment of the proposed drawback provisions which merely have the effect of extending time periods.

In order to attract attention, the Administration has exaggerated the amount of the drawback refund. It is telling everyone that the refund could cost up to $800 million. That is preposterous. Refiners do not have anywhere near that amount of drawback available.

The members of the Association have informed our accountants that they have $402,142,000 still available. Of that total, they estimate that the most they could possibly apply for, under the best of circumstances, is $304,863,000.

Ironically, earlier this year, the Administration did not hesitate to propose spending well over $1 billion on a dubious plan to change the sugar program.

The Administration also argues that the extension will benefit only five companies. This is its most callous and unfair argument. If it were not for misguided Administration policy, there would be more refiners around. As I mentioned earlier, six companies have gone out of the refining business since 1981.

Numerous proposals have been advanced in recent months to help the refining industry. The Administration has rejected them one after the other. It has, among other things, refused to address the problem of imports of sugar-containing products, which are circumventing the sugar import quotas. It has failed to bring sugar operations in so-called "foreign trade zones" under control. It also has rejected a proposal to include refined sugar in the Export Enhancement Program.

It even went so far as to sell CCC sugar to Red China at discount prices, rather that permit refiners to buy it, or refine it for export.

The other victims of this ill-conceived policy are the sugar exporting nations, which include our friends in Latin America, the Caribbean Basin, and the Philippines.

In conclusion, Mr. Chairman, the drawback extension is fair and justified. The Administration's opposition to it is completely unjustified.

UNITED STATES CANE SUGAR REFINERS' ASSOCIATION

AMERICAN SUGAR DIVISION
AMSTAR SUGAR CORPORATION
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 10020

IMPERIAL SUGAR COMPANY
SUGAR LAND, TEXAS 77478

REFINED SUGARS, INCORPORATED
1 FEDERAL STREET
YONKERS, NY 10702

SAVANNAH FOODS & INDUSTRIES, INC.
PO BOX 339
SAVANNAH, GA 31402

SUPREME SUGAR COMPANY, INC.
PO BOX 56009
NEW ORLEANS, LA 70156

The following organizations are among those supporting the sugar drawback extension included in the trade bill:

American Sugar Cane League
CBI Sugar Group
Chocolate Manufacturers Association
Corn Refiners Association, Inc.
Hawaiian Sugar Planters' Association
Independent Bakers Association
International Ice Cream Association
International Longshoremen's Association, AFL/CIO
Milk Industry Foundation
National Confectioners Association
Public Voice for Food and Health Policy
Rio Grande Valley Sugar Growers
United Food and Commercial Workers, AFL/CIO
U.S. Cane Sugar Refiners' Association

THE ECONOMIC IMPACT OF REINSTATING EXPIRED RIGHTS TO DRAWBACK OF CUSTOMS DUTIES ON SUGAR

Executive Summary

- Drawback is simply a refund of previously paid duties. It permits manufacturers such as sugar refiners who use imported raw materials to remain competitive in export markets. Drawback is paid only when sugar is exported.

- Drawback of duties on sugar and other manufactured goods has a long history and was an early part of U.S. tariff law. For example, sugar refiners were able to maintain a high level of exports early in this century because until 1930 there was no limit on the time period during which drawback was available.

- Proposed legislation would give access to drawback rights that have expired. Without this extension U.S. refined sugar exports will be virtually eliminated by next March and one or two more refineries will close.

- Annual U.S. exports eligible for drawback will average 590,000 tons, raw value during the 1988-91 period covered by the legislation. This forecast takes into account the anticipated value of refined sugar in the world market, the location of potential foreign importers of refined sugar, the likely responses of other countries, logistical constraints, and the fact that much of the drawback theoretically available will not be used because of changes in the domestic industry.

- The federal budget costs arising from passage of the drawback provision will depend on how much sugar is exported, not on how much drawback is available. Refunds represent a reduction in net tariff revenue rather than an outlay requiring an appropriation. The likely four-year total of refunds under the drawback provision is estimated to be $230 million. Offsetting benefits include $181 million in local economic activity that maintains employment and generates tax revenue, and increased export revenue for CBI countries.

Prepared by: Abel, Daft & Earley
1410 King Street
Alexandria, Virginia

September 1987

Introduction

Both the Senate and the House have now passed comprehensive packages of trade legislation. While there are many differences between the two bills that must be reconciled this fall by the Conference Committee, one common element is the sugar drawback provision. This report describes how drawback works, and analyzes the major economic impacts of reinstating the expired drawback rights.

The drawback concept was first applied to sugar in France during the reign of Louis XIV, and in the years since it has been adopted as part of the sugar regimes of most importing countries. Since the beginning of the Republic, U.S. tariff law has applied the principle to exports of many types of manufactured goods made with imported raw materials. Before 1930 the drawback law contained no time limit on the period within which refined sugar could be exported and still remain eligible for drawback. Thus, for example, when market conditions were favorable between 1915 and 1925, U.S. refiners used extended drawback rights to export an average of over half a million tons of refined sugar a year, similar to recent levels.

The duty drawback provisions in section 313 of the Tariff Act of 1930 have been instrumental in maintaining U.S. sugar exports and refinery capacity utilization during the past few years. The availability of drawback has enabled U.S. refiners to import raw sugar at world market prices, process it, and export the refined product at prices competitive with those offered by other exporters. The major competitor is the European Community, but Cuba and Brazil are also major exporters to geographic areas served by U.S. refiners. According to the latest data from F.O. Licht, the leading independent source for world sugar statistics, these three exporters accounted for about two thirds of world refined sugar exports in 1986. The U.S. share was 4.4 percent. Other leading exporters are shown in the table below.

Table 1

World Refined Sugar Exports: 1986
(million metric tons, raw value)

	Tonnage	Percent	Type
EC	5.1	45	Beet
Brazil	1.6	14	Cane
Cuba	.6	5	Cane
U.S.A.	.5	4	Re-export cane
E. Germany	.3	3	Beet
Romania	.3	3	Beet
U.S.S.R.	.3	3	Beet
China	.3	3	Re-export cane
S. Korea	.3	3	Re-export cane
Thailand	.3	3	Cane
Other	1.7	14	-
World	11.3	100	-

Source: F.O. Licht.

There are three types of refined sugar exporter. Beet sugar producers in the EC, Russia, and Eastern Europe account for about 70 percent of world trade. In the case of the EC, most exports are heavily subsidized, while those from the Soviet Bloc are generally of a barter or non-commercial nature. The major cane sugar producing countries account for about 20 percent of refined exports. The final 10 percent is provided by countries that import raw cane sugar, process it in coastal refineries, and re-export it. The major re-exporters of cane sugar are the U.S., China, South Korea, Malaysia and Canada.

In general, the major cane sugar producers like Brazil or Thailand have low production costs, and the additional expense of taking the sugar to its fully refined state is quite modest. This is because labor costs are relatively low, and energy costs are reduced by burning surplus bagasse. Beet sugar is manufactured in a one-step process at a cost that is generally higher than that for cane sugar, so that most exports by the EC and other European countries are heavily subsidized. As discussed further below, these factors have helped keep the price of refined sugar in world markets from getting more than a couple of cents per pound above the price of raw sugar. Therefore most re-export business tends to be done with an eye on marginal costs, on the theory that any contribution to fixed costs is welcome.

How Drawback Works

Items such as raw sugar on which duties or fees must be paid at the time of importation may also be processed and exported. When the export takes place, drawback, a refund amounting to 99 percent of previously paid duties, is available to the importer of record - usually the refiner. Manufacturers have five years to export their product and claim the drawback, but processing must occur within three years of importing the raw material. Thus, for refined sugar, which is expensive to store and deteriorates over time, the practical result is to place a three year limit on the time available to use drawback.

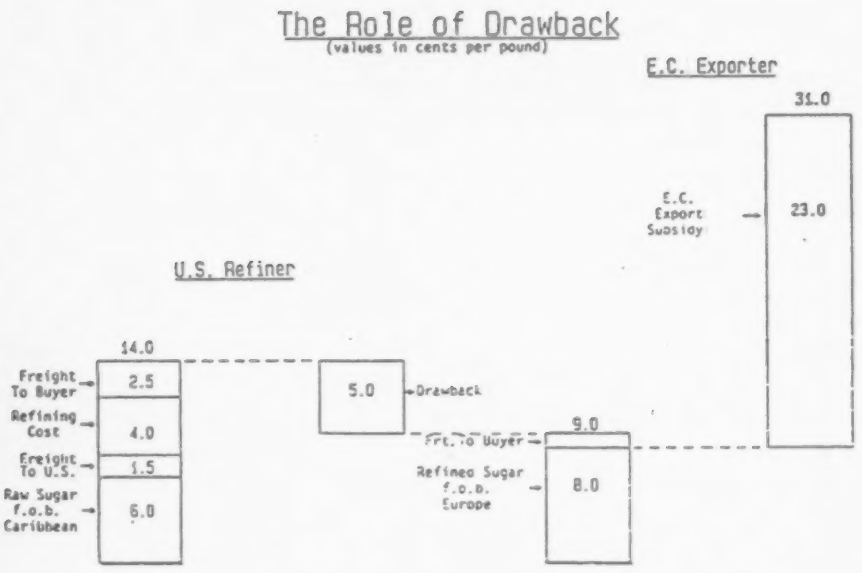
The best way to explain how drawback works and the role it plays is through an example. Figure 1 shows, in round numbers, the market relationships that prevailed in July, 1987. The left side of the figure shows that a U.S. refiner could buy raw sugar on the world market at 6 cents per pound, loaded on a ship in a Caribbean port. Freight, insurance and unloading expenses total about 1.5 cents. The 4-cent refining cost covers the refining loss and outlays for labor, energy, materials, finance, etc., plus any profit margin. (The refining loss is the cost stemming from the fact that it takes 1.087 pounds of raw sugar to make one pound of refined sugar —in this example a cost of about half a cent.) Finally, the cost of shipping the bagged refined sugar to markets in Africa or the Middle East is approximately 2.5 cents. Thus the refiner must recover a total of 14 cents per pound.

Unfortunately the world price for refined sugar loaded on board a ship in a European port is only 8 cents and the cost of freight to Africa or the Middle East is only one cent. So an EC exporter can deliver refined sugar to the importing country for nine cents. Of course he can only do this because he has received an export restitution of 23 cents from the European Commission to offset the difference between the high price of refined sugar within the Community and the low world price.

As is obvious in the figure, what drawback does is permit the U.S. refiner to be competitive with the EC and other exporters. In this example, the 5-cent refund of previously paid duties and fees makes up the difference between what the refiner needs to do the business and what the market is offering him. Note that the refiner does not just pocket this five cents. The refiner's profit is whatever is left of the 4-cent refining margin after he has paid all his costs—labor, utilities, materials, financing, refining loss, equipment repair, etc. This is typically a fraction of a cent.

Obviously many of the components of this calculation will vary over time and with circumstances. In particular, the premium over raw prices commanded by refined sugar, and the relative freight costs from exporting countries to importing countries can differ. But the basic principle remains the same.

Figure 1



Why Legislation Was Proposed

Legislation to give refiners access to all unused drawback rights produced since October 1, 1977 for the period from enactment through the end of the current farm legislation on October 1, 1991 was proposed for three reasons:

- The Presidential Proclamation imposing quotas in May, 1982 made no provision for re-exportation so refiners were precluded from using drawback rights for the following 14 months.

- The Conference Report on the 1985 Farm Bill expressed Congressional concern that the refining sector not be further impaired and that a viable re-export program be maintained.

- The domestic sugar program will force the closure of more refineries if a good flow of re-export business is not continued.

The variable import fee program in effect from 1978 to 1985 produced two periods (1978-79 and 1982) when the combination of duties and fees exceeded 5.0 cents per pound for significant periods and generated high value drawback. The level of import fees and duties since the beginning of 1978 is summarized in Figure 2.

Because of the three year limit on access, all of the high value drawback created in the late 1970's and early 1980's either has expired or has been used. Even the comparatively low value 2.8125 cent drawback produced in 1983 and 1984 will be gone by March, 1988 due to the time elapsed and the extension of duty free treatment to nearly all exporters under the Generalized System of Preferences and the Caribbean Basin Initiative. The result of this latter change has been to sharply reduce the size of the drawback pool on top of the decline in overall value (Figure 3)

Figure 2

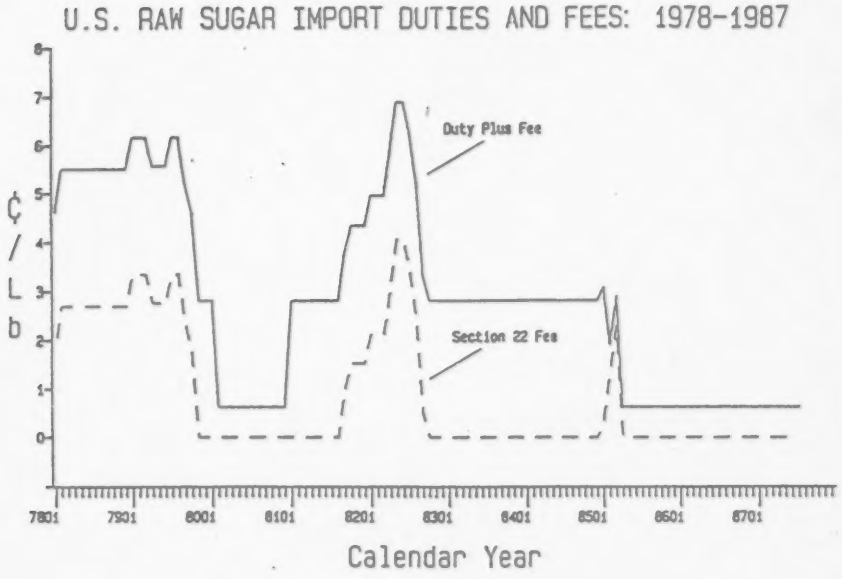
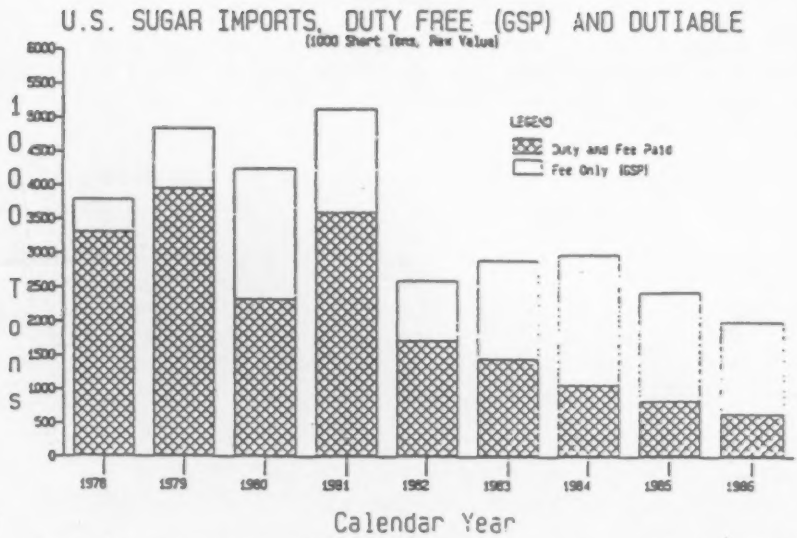
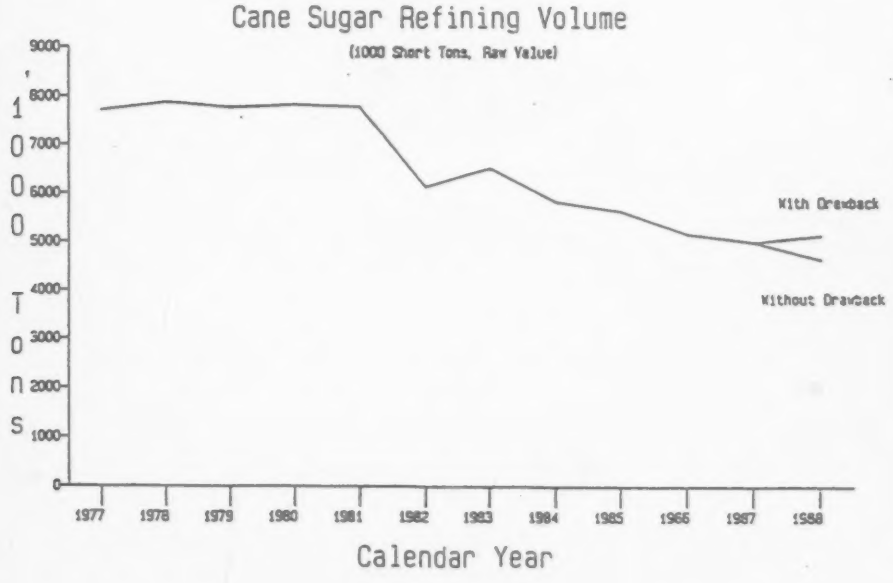


Figure 3



Over the past decade, the quantity of sugar refined in the United States has dropped precipitously, from about 7.7 mst (million short tons) in 1977 to 5.0 mst in 1987 (Figure 4). Gulf and East Coast refinery volume has declined from 6.7 mst to 4.2 mst, a 37 percent drop. This year's exports of 0.5 mst make up 12 percent of the volume processed by these refineries. Without the export business, there is little question but that one or two more refineries will close. The impact of this is discussed below.

Figure 4



Quantity of Drawback Available

Estimates of the amount of drawback available or likely to be used have been somewhat hazy for a variety of reasons. The Customs Service says their documentation is incomplete. Moreover, some refiners have gone out of business.

The refiners themselves have estimated that reinstatement of drawback rights will add about 500,000 tons, raw value, annually to the low level of U.S. refined sugar exports that would otherwise prevail through the end of the decade. As a result, exports could total 500-600 tst (thousand short tons) per year until 1991. While this is below the 1,200 tst level achieved in 1981, it would be comparable to export levels in recent years. The refiners' estimate is based on a review of their own records and an assessment of the export volume that could be sustained under anticipated market conditions.

Figure 5

We have made our own estimate, which is presented in the next section. But a necessary first step is to get a fix on how much drawback would theoretically become available. To get accurate estimates of lapsed or unused drawback GSP imports must be adjusted for, exports made against existing drawback have to be deducted from total imports, and activities of defunct or inactive refiners and importers must be factored out of both import and export figures. All of this entails tabulating monthly U.S. import data by origin and imports and exports by customs district.

The estimates of drawback availability were derived from a review of Census data for each major customs district and for all imports and exports from 1978 through the present and those projected for the balance of 1987. These figures include 2.0 mst of drawback generated by idled refineries belonging to Godchaux-Henderson (Hunt International Resources) and Revere Sugar. Drawback attributable to National Sugar has been deducted from the totals, however. One should also note that much of the drawback is held not by refiners but by food and beverage manufacturers who imported raw sugar in the late 1970's and early 1980's for refining under tolling agreements.

We did not include shipments of less than 1,000 tons in our export tally. Consequently, many small exports on which drawback may have been claimed are missing from the total. This could result in an overestimate of drawback availability, but the error is probably not great evidenced by the fact that in 1980 and 1981, the two years with the largest export volume, cargoes of over 1,000 tons constitute almost 95 percent of all shipments. Drawback claimed on exports of sugar-containing products is also not accounted for, but in any case would not represent a large tonnage.

Although Census import and export totals are generally lower than those reported by USDA, we chose to use them for three reasons:

- They are available on a monthly basis;
- They designate origin and customs district of entry or exit for all sugar; and
- They are based on customs reports and so are more likely to reflect actual drawback records maintained by the government.

Table 2 presents the results of this analysis, taking total imports in the indicated ranges of duty-plus-fee, and subtracting subsequent exports. There appears to be little or no drawback of above 6 cents, but there is potentially 4 million tons in the 5-6 cent range, 1.3 million tons in the 3-5 cent range, and 3.2 million tons in the 2.81-2.91 cent range. Applying the appropriate duties and fees to the 8.6 mst. of theoretical drawback yields a theoretical value of $742 million.

The total of 8.6 mst of drawback that would be reinstated includes large tonnages owned by refineries no longer in operation and by food and beverage manufacturers. Nevertheless, the balance is no

Table 2

Drawback Theoretically Available
With and Without Trade Bill

Drawback Value cents/lb.	Total Imports	Cargo-size Exports	Theoretical Tonnage With Bill	Theoretical Tonnage Without Bill	Theoretical Value With Bill
	---- 1,000 short tons, raw value ----				--- $million ---
2.81-2.91	3,936	725	3,211	632*	180.8
3.0-4.9	1,473	178	1,295	0	170.1
5.0-5.9	4,383	350	4,033	0	444.1
Over 6.0	1,602	1,522	80	0	10.0
Total			8,619	632	742.0

* Last available drawback expires March, 1988.

Source: U.S. Census Bureau

doubt more than ample for the 4-year period covered by the trade legislation. The question is how much would actually be used.

Projected U.S. Sugar Exports

Knowing how much drawback is potentially available does not tell one how much is going to be used. After all, the main reason there are 8.6 million tons available is that there were no commercial opportunities to use it. Yet the probable volume of exports is the key question. One cannot estimate economic impacts or federal budget outlays without answering it.

The volume of U.S. sugar exports in the 1988-1991 period that would result from reinstatement of expired drawback will depend on four things:

- The effective availability of drawback;
- The reactions of the EC and Canada;
- The location of import markets; and
- Logistical constraints.

Effective Availability of Drawback

As mentioned earlier, the cane sugar refiners still in business only hold a portion of the drawback paper theoretically available. Some is held by refiners who are no longer in operation, and some is held by a large number of food and beverage manufacturing companies. Since drawback claims can only be filed for actual exports, the practical effect of this is twofold: a large share of the drawback theoretically available will never be exercised, and it is disproportionately high-value drawback.

In the late 1970's and early 1980's, a significant portion of cane sugar imports was made not by refiners but by end-users or merchants. For example, food processors would sign what are called tolling agreements with refiners. Under such an arrangement the refiner processes, for a negotiated fee, raw sugar provided by the food manufacturer.

A significant share of total raw sugar imports in the 1977-1982 period was covered by tolling agreements. Trade sources generally estimate that 20-30 percent of independent cane refining volume was tolled. And on some sugar not tolled the importer of record was an international merchant, not the refiner.

This has two implications for our analysis. First, a disproportionate share of the high value drawback (5 cents or more) belongs to firms not involved in cane sugar refining. The reason for this is that the 4.3 mst of exports done since 1980 by refiners was done using their own drawback rights. Thus much of the high drawback they had accumulated has been used. The other importers of record still have almost all of their drawback, whether high or low.

Second, this theoretical availability does not translate into practical availability. Given the consolidation that has taken place in the food and beverage sector, many of the companies no longer exist. Equally important, the import records (or knowledge of them) no longer exists. Mergers, acquisitions, divestitures, takeovers, bankruptcies, personnel turnover, and normal housekeeping have in many cases eliminated either the company, the records, or the people who know about the records.

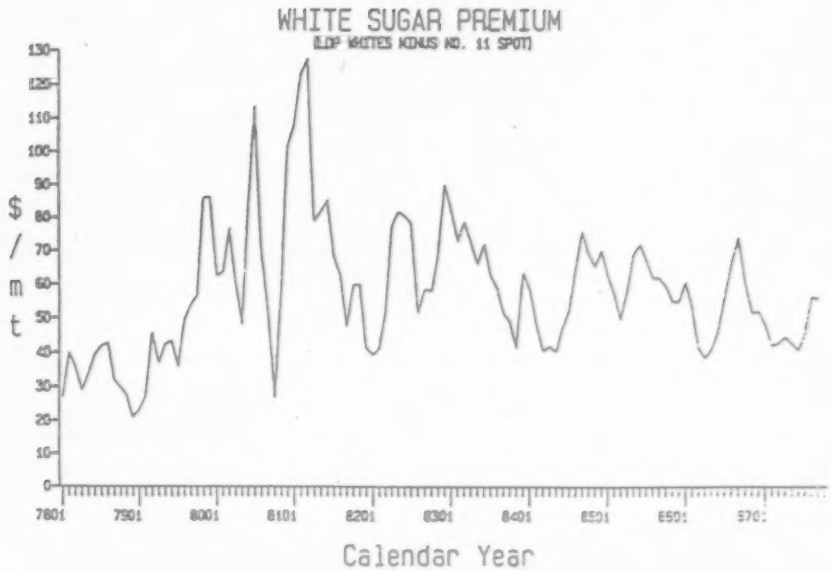
Reaction of the EC and Canada

The world market for refined sugar is generally characterized by steady supply and fluctuating demand. This often results in wide differentials between raw and white sugar values (Figure 6). As we noted earlier, drawback usually makes up the difference between the bid price for refined sugar and the cost of refining and moving the sugar. When only low value drawback is available, large premiums are necessary for U.S. refiners to participate in the world market for whites.

U.S. exports represent only about 5 percent of world white sugar exports, while the European Community dominates the market with about half of world refined sugar exports. Moreover, the Community's subsidies strongly influence the white sugar premium. The EC subsidizes most of its sugar exports by paying what they call an export restitution to make up the difference between the world price and the internal EC price. During the summer of 1987 the restitution has been about 23 cents. If U.S. reinstatement of drawback rights simply causes the EC to increase its export subsidy, U.S. refiners may find it impossible to export more than they have been exporting.

Since passage of the drawback bill would tend to preserve excess capacity among export-oriented refiners and make it possible to sell at lower premiums, the periods when the premium exceeds $60-$70 per metric ton should be brief (if they occur at all) during the first two or three years after access to the high value drawback is granted. Any depression of the white sugar premium could mean that a large portion of the lower value drawback (mostly 2.8125 cents) might not be usable, even if the period is extended.

Figure 6



One should note that the extraordinary 1.2 mst of U.S. exports in 1981 occurred in a market environment that allowed most of the sales to be booked at a whites premium of $70-$125 per metric ton. That was 1.4-3.9 cents per pound more than the $40/m.t. that has recently prevailed.

Trade with Canada raises separate problems because of the sharply different government policies on both sides of the border. Sugar flows into the U.S. from Canada both under quota and in sugar-containing products, blends, mixtures, etc. While the quota has declined to only about 10,000 tons in 1987, the U.S. has remained a major outlet for Canadian refiners because the high U.S. sugar support level has stimulated large imports of high sugar content products (directly and via free trade zones) as well as a succession of other efforts to circumvent the quotas.

Canada has also been an important export market for U.S. refiners. Official U.S. data show exports to Canada of 89 tst in 1985 and 83 tst in 1986. Official Canadian data reported to the International Sugar Organization show imports from the U.S. of 99 tst in 1985 and 133 tst in 1986. Reinstatement of the expired drawback will significantly increase the ability of U.S. refiners to export to Canada. Whether exports will actually increase is uncertain though.

Given the recent pattern of interaction between the U.S. and Canada on trade disputes (e.g., wood products, hogs, corn, fertilizer, etc.) we expect Canada to impose countervailing duties or to limit sugar imports from the U.S. by some other mechanism. This would eliminate one major export market which is not easily replaced.

The Location of Import Markets

Of the 10.7 mmt (raw value) of 1986 refined sugar imports reported by F.O. Licht, only 726 tmt were in the western Hemisphere. Yet there were over 2.5 mmt of refined sugar exports from Western Hemisphere origins other than the U.S. So selling additional sugar to nearby markets will not be easy, especially if, as discussed above, Canada is off-limits.

The main destinations of U.S. sugar exports during the last three calendar years are shown below in Table 3. These are Commerce Department figures that have been converted to their raw value equivalent in short tons. Border trade has been steady or growing slightly in the case of Canada, but Mexico's brief interlude as an importer ended in 1984, and that country is now exporting large quantities of non-quota sugar to the U.S. for refining and re-export.

Table 3

U.S. Refined Sugar Exports

	1984	1985	1986
	---- 1,000 s.t., raw value ----		
Canada	35	89	83
Mexico	91	1	-
Jamaica	47	25	38
Haiti	13	19	25
Peru	17	-	136
Chile	21	5	6
Turkey	-	29	50
Iraq	-	14	101
Jordan	-	33	13
India	-	74	-
Tunisia	-	13	-
Other	118	104	46
Total	342	406	498

Source: FATUS, USDA.

U.S. sales to the Caribbean have been stable, but will end if drawback is not extended. Importers there would be able to buy sugar from the EC, Brazil, or Cuba for a third less than what U.S. refiners would have to charge.

Prospects in other markets vary markedly from year to year. For example the jump in sales to South America in 1986 was due to a large

sale to Peru, which had bought nothing from the U.S. in 1985. And Indian purchases in 1985 were not repeated the following year. Where the export opportunities will be in the years ahead remains to be seen, but the sheer size of refined sugar markets in North Africa and the Middle East makes then leading candidates. A significant proportion of any additional U.S. sales would very likely be in these markets, which are currently supplied by subsidized European Community exports. Unfortunately, shipping costs from the U.S. to that region are much higher than those faced by E.C. exporters.

Logistical Constraints

Finally, there is simply a limit to how much bagged refined sugar the remaining port refineries can manufacture and ship. These logistical constraints vary from refinery to refinery but in aggregate will limit the volume of re-export business to reasonable levels.

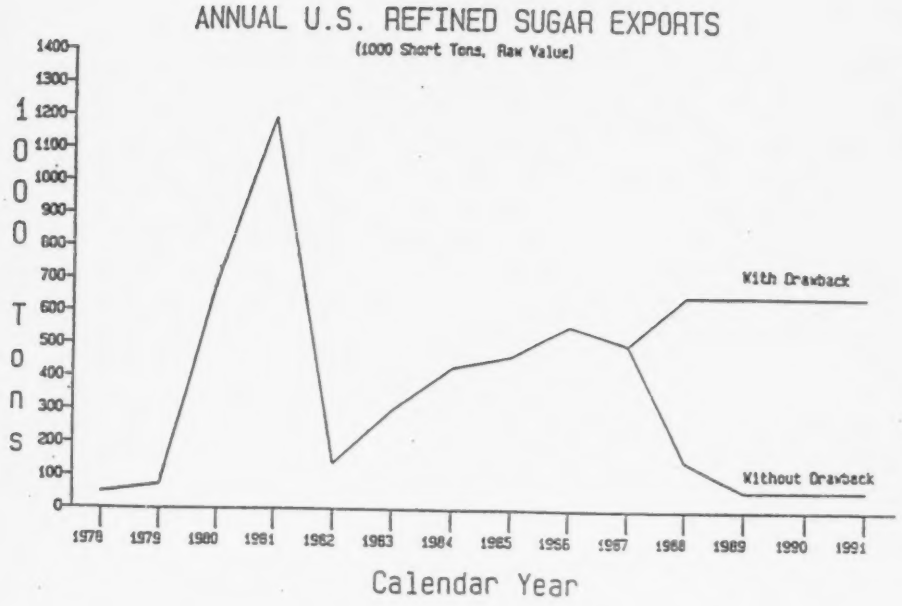
Our Export Forecast

Taking into account these various factors, we predict that U.S. exports eligible for drawback will average about 590,000 tons annually if drawback is reinstated. This does not include shipments to Puerto Rico. If drawback is not reinstated exports would probably decline to about 60,000 tons of Puerto Rican shipments on which drawback would not be available in any case. Although 2.81 cent drawback is available through March of 1988, the amounts available after January are quite limited and should keep next year's exports around 150,000 tons if drawback is not reinstated. The alternative export paths are illustrated in Figure 7.

In actuality, U.S. exports could vary markedly from year to year depending on market conditions. Production shortfalls in nearby markets, a strong whites premium, or early utilization of the most attractive drawback would boost exports. Poor import demand, a weak premium, and declining drawback levels over time will reduce exports. Also, in 1991 there are only 9 months when the reinstated drawback can be used.

In 1987, U.S. sugar exports are projected to total 500,000 tons raw value. Of this quantity, only 340,000 tons will go to destinations other than Canada and Puerto Rico. For our projections we have assumed that shipments tc Puerto Rico will continue at the 60,000 tons per year level but that sales to Canada will be cut off. Therefore our 590,000 ton export forecast represents a 74 percent increase over this year's exports to other destinations.

Figure 7



Economic Impacts

The reinstatement of expired drawback will have a variety of beneficial impacts. The major negative aspect is that it will cost the federal government some money. Estimates of the economic effects are provided below.

Impact on Refiners and Local Economies

The major effect of the drawback legislation would obviously be on the independent cane refining industry and the communities in which refineries are located. As Table 4 shows, since 1981 eight refineries representing almost one-third of total U.S. refinery capacity have closed. Without the legislation one or two more refineries will close. With the legislation, refining volume in the 1988-1991 period might be maintained at about the 1987 level.

Table 4

Cane Sugar Refinery Closures Since 1981

Refinery Location	Company	Capacity*	
Aiea, Hawaii	C & H	200	
Baltimore, Maryland	Amstar	2,600	
~~Belle Glade, Florida~~	~~Florida Sugar~~	~~390~~	Closed 3/86
Boston, Massachusetts	Amstar	1,000	
~~Boston, Massachusetts~~	~~Revere~~	~~1,200~~	Closed 5/84
Brooklyn, New York	Amstar	2,100	
~~Brooklyn, New York~~	~~Revere~~	~~1,120~~	Closed 3/85
Chalmette, Louisiana	Amstar	3,250	
~~Chicago, Illinois~~	~~Revere~~	~~850~~	Closed 5/84
Clewiston, Florida	Savannah	400	
Crockett, California	C & H	3,500	
Gramercy, Louisiana	Savannah	1,500	
~~Mathews, Louisiana~~	~~Louisiana Sugar Gene~~	~~600~~	Closed 9/85
~~Philadelphia, Pennsylvania~~	~~Amstar~~	~~2,100~~	Closed 10/82
~~Philadelphia, Pennsylvania~~	~~National~~	~~2,100~~	Closed 9/81
Port Wentworth, Georgia	Savannah	2,000	
~~Reserve, Louisiana~~	~~Godchaux Henderson~~	~~1,900~~	Closed 1/85
St. Louis, Missouri	Savannah	300	
South Bay, Florida	Okeelanta	500	
Sugar Land, Texas	Imperial	1,650	
Supreme, Louisiana	Supreme (ADM)	700	
Yonkers, New York	Refined Sugars	1,800	

* 24-hour melting capacity, short tons, raw value, as reported by USDA

We estimate the direct economic impact of extending drawback coverage for an additional four years to be $181 million. But the true benefits extend well beyond the direct effects because refinery expenditures generate additional economic activity both locally and nationally. This maintains employment at refineries and their suppliers, and it generates tax revenue for federal, state, and city governments.

The direct impact of maintaining exports at around 590,000 tons per year is easily calculated. The refining expense of 4.0 cents per pound ($80 per ton) estimated earlier covers the cost of goods and services purchased in the local economy — such things as wages, transportation, taxes, utilities, and equipment. Thus re-exports of an additional 2,260,000 tons over the 4-year period would have a direct impact of $181 million.

The degree of indirect benefit is more problematic and depends on the extent to which a given dollar used to purchase goods and services is "respent" in the economy. Application of any kind of multiplier would more than double the estimated benefits.

We have estimated these benefits on a national basis, and to a certain extent that is appropriate since maintaining exports at 590,000 tons would support capacity utilization rates throughout the industry. However, an end to U.S. exports would likely have a rather more localized impact. Almost 90 percent of cargo-size U.S. re-export activity in 1986 was accounted for by refineries in the New Orleans customs district. This is due largely to proximity to raw sugar suppliers in the Caribbean Basin. Given the industry's current capacity utilization rate of about 70 percent, the loss of 590,000 tons of re-export activity -- 12 percent of total industry volume —would almost certainly result in idling at least one refinery in New Orleans and precipitate further consolidation of capacity in industrial port cities in the Northeast.

Impact on Federal Revenue

Federal costs arise due to a reduction in tariff receipts rather than as a direct expenditure. Consequently, no appropriation is required.

We have estimated that with reinstatement of drawback, U.S. exports through September 30, 1981 will total 2,360 tst, raw value. Of this quantity, 100 tst would have been exported in the first quarter of 1988 with 2.81 cent drawback under existing law. Given that the refiners hold proportionately less high value drawback than other importers of record, we estimate that the average reimbursement to exporters will be 5 cents per pound or $100 per short ton. On the 2,260 tst of additional exports this amounts to $226 million. Adding the higher drawback on the sugar that would be exported in early 1988 anyway, the total reduction in net federal tariff revenue comes to $230 million over the 4-year period, or an average of less than $60 million per year.

Impact on Consumers

There would be no negative impact on consumers since the U.S. market price would be unaffected. Public Voice, a leading consumer group, has endorsed the proposal. In addition, consumers would benefit from a stabilized cane sugar refining industry able to meet the demand for refined sugar should domestic beet sugar production be disrupted by adverse weather.

Domestic Sugar Industry

Since domestic raw sugar producers in Florida, Louisiana, Texas and Hawaii also need refineries as outlets for their product, and since there are no anticipated effects on the domestic market, U.S. sugar producers have endorsed the proposal.

Impact on Neighboring Sugar Exporters

It is in the nature of re-export business that it does not fundamentally alter the world supply-demand balance, since it is basically a redirection of trade. But it does affect both geographical price differentials and the differential between raw and refined sugar. With reinstatement of drawback, raw sugar prices in the western hemisphere will be stronger relative to those elsewhere, and the world price as measured by the Number 11 market will rise. The world whites premium will be weaker than otherwise.

Virtually all the raw sugar that U.S. refiners buy for refining and re-export comes from Mexico, the Dominican Republic, and other neighboring countries in Central America and the Caribbean. U.S. imports from the CBI countries and Mexico, including both quota and re-export sugar, have averaged 1,140 tst annually since 1983 and are expected to total 1,030 tst this year. If drawback is not reinstated, U.S. imports from the region will fall to 440 tst, a 57 percent decline. Total sugar exports by Mexico and the CBI countries, will stagnate at 1.8 mst and the share of those exports going to the U.S. will drop from the recent 50-60 percent range to only 25 percent. Caribbean and Central American exporters will have to rely on additional sales to the Soviet Union and Asia to maintain their exports.

Sugar Trade Forecast in Absence of Drawback

	1984	1985	1986	1987*	1988**
	1,000 short tons				
U.S. Imports					
Mexico	-	36	119	187	50
Central America	601	440	465	375	165
Caribbean	799	601	470	468	235
Total	1,400	1,077	1,054	1,030	450
Total Exports					
Mexico	-	73	241	496	474
Central America	937	616	629	590	595
Caribben	1,348	1,145	882	915	871
Total	2,285	1,834	1,752	2,001	1,940
	percent				
U.S. Share					
Total	61	59	60	52	23

* Estimated
** Projected, assuming no drawback

Sources: USDA, International Sugar Organization.

Senator MELCHER. Thank you.

I think our next witness is Robert Hanna; at least that is the way we have got it on this prepared witness list.

Mr. Hanna.

STATEMENT OF ROBERT C. HANNA, PRESIDENT AND CHIEF EXECUTIVE OFFICER, IMPERIAL SUGAR CO., SUGAR LAND, TX

Mr. HANNA. Mr. Chairman, Senator Bond, my name is Robert Hanna. I am president of the Imperial Sugar Company of Sugar Land, Texas. You asked me to appear before the committee and give testimony relative to the sugar drawback extension which is part of the omnibus trade bill. I am pleased to accept your invitation and I sincerely hope to bring you sufficient reason to change your attitude about section 897 from opposition to support.

I have previously submitted written testimony. I have addressed your expressed concerns about the documents which we may have to support claims which we may make for drawback. I have addressed the matter of acceptability of these documents by the Customs Service and have given answers to your question of why the drawback extension should be allowed.

My written testimony includes the dollar amount of net drawback for which Imperial would be eligible for the years 1977 to 1982, together with comments about our potential recovery.

A study of your questions provided me with an understanding of your position, but it left me with questions about your understanding of our position and how we happen to have it. So I would like to share with you some of the problems suffered by the cane sugar refining industry and the reasons why we are so keenly interested in section 897 of the omnibus trade bill.

I will begin by telling you that under different circumstances, the Imperial Sugar Company would have little or no interest in drawback or reexport programs at all. Under different circumstances, one of the last things that we would be trying to figure out are ways to do business in some foreign country. Unfortunately, circumstances are not different; they are desperate.

We are not interested in drawback and reexport by desire; rather, by dire necessity. Our desire is to do business in the Southwest, the Southwest United States of America, not the Middle East.

It has come down to a do-or-die situation for some of us, and I view that as a damn shame. The sugar business in the United States is a mess, particularly the refined cane sugar business, and it is a mess mainly because of the sugar sections of the present and previous farm bills and their administration.

You just heard Nick Kominus say that six sugar companies have gone out of business and eight sugar refineries have closed, and that did not happen because they produced bad product or offered poor service or decided to go into some other line of work. They closed because of the unbearable market effects that came down on them and us as a result of the sugar program and its administration.

We have been rendered unable to compete because of a support program that benefits our competitors. We are effectively legislated

out of business, and to this point seemingly powerless to do anything about it. How did that happen, you may ask?

Well, Senator, if sugar has an enemy, it is high prices, especially high prices derived from a contrived economic situation, and that is what we have got from the sugar program, high prices, first from the imposition of maximum duties and fees which we paid and about which I will comment on later, but that scheme could not succeed, and then next through the application of restrictive import quotas that squeezed the raw sugar supply to shortage level.

That scheme worked. It raised the prices all right, high enough to open the door for the corn millers to come in and take a third of sugar's business with high fructose corn syrup.

We also got some new pricing strategy for the refined sugar market that was left, if indeed you can call what was left a market. On the one hand, the sugar program mandates a raw sugar cost for refiners that is designed to be high enough to protect the sugar program against any expense in the loan purchase area through forfeiture, the target amount market stabilization price.

At the same time, the sugar program unwittingly, or wittingly, creates a forfeiture market sale break-even option for refined beet sugar at a price less than the MSP converted to refined equivalency. In plain terms, that means raw sugar costs $23.28 and beet sugar sells for $23.25 f.o.b. the factory. And that, sir, is an example of the abject frustration that refiners have had to deal with.

Now, what chance does a refiner have when his raw sugar cost exceeds his competitor's price for refined? The answer is none, and no wonder that eight refineries have closed. Also, no wonder that five beet factories have opened.

What happens when there are too few refiners to buy the raw sugar that is produced domestically, and how does the administration meet its no-cost requirement for the sugar program when there are too few refiners to make a market for the increased supply of the commodity?

I suppose the fallback is loan forfeiture. Then perhaps the CCC can sell the forfeited sugar, as they did before to China for less than 25 percent of what they paid for it. It seems to me there is a cost in that transaction somewhere.

It has been explained to me that the sugar programs were designed to benefit the domestic sugar industry. It has not been explained to me why it is then that the corn wet millers have benefited most and why the cane refiners are penalized rather than being benefited. I am forced to assume that refiners do not qualify for membership in the domestic sugar industry, and that is pretty hard for me to believe.

Our company is the oldest business in Texas. We started out as a sugar plantation in the 1820's and we have been producing refined sugar since 1843. We grew and processed our own cane for over 100 years until 1928, and we agreed to be the customer that the Rio Grande Valley Sugar Growers Association was required to have for its raw sugar in order to obtain acreage allotments and commence business in 1973. For 13 seasons, we bought everything they produced and paid them market price for it.

Well, with that kind of a background, we thought surely we qualified for inclusion in the domestic industry, but apparently we

were mistaken because there has been no benefit for us. To the contrary, we seem to be the tools that the Government uses to make its program work for the benefit of others.

In today's circumstances, if there is any program under consideration that could benefit refiners, it has to be that of drawback extension as outlined in section 897. Make no mistake; it will not be a windfall as I have read that it would be in the press.

The majority recovered would go to offset the high cost of access to the subsidized foreign refined sugar markets. It will not be a cure-all either, but it might give us a little breathing room.

And contrary to some beliefs, it is not a new program. It is just a timing change on one that has been on the books for a long time. As for the Treasury drain, the administration ordered the application of maximum duties and fees and the refiners paid them. The Treasury never would have had the money in the first place if the refiners had not paid it in. Now that our opportunities to do business in America grow fewer every day, we need that money back in order to do business some place else in the world.

Finally, to the comments about providing a benefit to a few big sugar companies, we may only be big in the eyes of our employees. We are the only employer they have got. But in any case, we are getting smaller every year, and right now we represent about all that is left of our industry.

To conclude, the drawback extension is absolutely critical to our survival. But given the alternative, our preference would be the chance to do business in south Texas, not South America.

Thank you for your attention.

[The prepared statement of Mr. Hanna with attachments follow:]

STATEMENT OF ROBERT C. HANNA

PRESIDENT AND CHIEF EXECUTIVE OFFICER

IMPERIAL SUGAR COMPANY
SUGAR LAND, TEXAS

Mr. Chairman, members of the Committee, I am responding to your invitation to discuss the matter of proposed drawback of duties and fees paid by the Imperial Sugar Company on its imports of raw cane sugar. It is our understanding your interest in the subject is prompted by the contents of Section 897 of the Omnibus Trade Bill (S. 1420) dealing with the extension of drawback eligibility for which you have indicated your opposition. You have requested that we give testimony which primarily addresses four areas of your concern which are:

1. The documents we possess and are able to produce that will satisfy verification requirements of the U.S. Customs Service for drawback of duty and fee.

2. How and why these documents should be accepted by the Customs Service.

3. Why the drawback should be allowed for the extended period proposed in the Omnibus Trade Bill.

4. The dollar amount of eligible drawback available to our company under Section 897 and how much of the availability we would seek to recover.

Mr. Chairman, I will comment on each of the above in the order presented. I will also attempt to hold elaboration to the minimum consistent with clarity and a complete response. At the conclusion of my remarks I will do my best to answer questions that you or other members of the Committee may ask.

1. We believe we are able to produce all the documentation required by the U. S. Customs Service to satisfy their verification requirements. Our files are quite complete and contain all documents of country of origin, transport, receipt, entry, outturn and test determination, payment of duty and fees, including copies of cancelled checks payable to the Customs Service, liquidation abstracts, and certificates of manufacture. We have correctly complied with all of the Customs Service regulations in effect at the times of import. All required customs forms have been submitted and acknowledgment of their receipt maintained in our records of each transaction. Examples of these documents are attached as Exhibits A through G.

2. We can not think of any reason why the U. S. Customs Service should not accept the documents we will offer, these documents are identical to those that have been previously required. It is not necessary to deviate the procedure, substitute

information or offer any alternative documentation. The Custom Service has not notified us of any difficulty in the past with our submissions or with their verification and we do not anticipate any in the future. As an example, the documentation we have offered in Exhibits A-G is that of an actual export shipment cleared for drawback. We have heard it speculated that the Customs Service may have difficulty retrieving corresponding copies of their records that coincide with the entries made by refiners, but we have not been told it is impossible. We are agreeable to outside audit if that seems appropriate and we are agreeable to making affidavit that our records and claims are true and correct.

3. We are not prepared to comment on the drawback opportunities or lack thereof as they may apply to other products or commodities. However, it occurs to us that no other industry supplying a food product to the American consumer has the burden of legislative constraint that the cane sugar refining industry does. No other product or commodity that we are aware of is faced with the situation of a U. S. Government guaranteed profit for its competitors.

Section 897 of SB 1420 was considered by the Senate and included by a sizeable majority vote. Similarily the House of Representatives considered the drawback matter and also by a sizeable majority vote included identical language in the House version of the Omnibus Trade Bill. Mr. Chairman, I believe you have indicated your desire that the U. S. Cane Sugar refining industry should not suffer additional attrition. I believe The Food Security Act itself recites as much. You may be assured that without some form of relief, such as the drawback extension, the attrition will continue. We are of the opinion that the basis for the drawback provision has always been to relieve an added burden of cost when it is no longer needed to protect similar goods of domestic production from foreign competition. In our case, raw sugar imported and entered for consumption and then re-exported instead as refined sugar to foreign markets fulfills that qualification and becomes eligible for drawback of duties and fees. There has never been a question of fungibility, no problems of comingling or substitution of raw sugar and we expect none in the future. So long as we are able to provide documents of the entry and export with the prescribed paper trail in between, we are in compliance and eligible for rebate. The time frame for eligibility is perhaps arbitrary, a limit of 3 years, 5 years, 7 years, or no limit at all are administrative qualification to the basic premise which is to rebate unneeded duties and fees. It should be noted that it is not just coincidence that the suggested extended drawback period tracks the duration and expiry of the current Farm Bill. Further, considering the physical limitations of production capability as they may exist in the several refineries, coupled with an unknown market potential, the suggested time frame may be necessary to provide any meaningful opportunity for commerce. Section 897 is not a panacea by any means but it could help. It could provide some

band-aid cover until the Food Security Act of 1985 expires. Hopefully, future legislation relative to sugar would then be redirected in such a manner that equity would be restored for refiners and the possibility of their almost certain demise eliminated. We believe the no time limit program more closely fits the need. As for the treatment of other products and commodities it seems to us that if they suffer parallel inequity as a consequence of federal legislation, consistency would require similar treatment to that which we seek for sugar.

4. We have attached as Exhibit H a listing of the annual net amount of eligible drawback for each year 1977 through 1982. We wish it were possible to state precisely how much of this eligibility we would seek to recover, circumstances and the market will dictate that decision as it has in the past.

The Imperial Sugar Company is the oldest business in Texas still operating in its original location. We have been producing refined sugar in Sugar Land, Texas, since 1843. We began as a sugar plantation in the 1820's and processed locally grown cane for over 100 years until 1928. By 1900 the demand for our refined sugar exceeded the quantity that could be produced from the cane grown locally. Therefore, we began importing Caribbean raw sugar through the Port of Galveston. Over time we achieved and still hold the distinction of being the port's largest importer of dry commodities. We were also a leading payer of customs duties and fees. Our business objectives from the start were and are now to be the principal supplier of refined pure cane sugar to customers throughout the Southwest. Our cumtomers tell us we have succeeded, we have earned our reputation for quality and dependability. We have become preferred suppliers to our customers and preferred customers of our suppliers. The market we have sought is the one we seek now--the Southwest---the Southwest United States. Desire and ability aside, as a consequence of the Agriculture and Food Act of 1981, and the Food Security Act of 1985, our opportunities to continue our regular business with our usual customers in our traditional trade area have been seriously curtailed at best and eliminated at worst. The contrived economy for sugar, created by the administration of the current and preceding farm bills, have foreclosed our access to many customers and have rendered us either non-competitive or non-profitable with many others.

By way of explanation, we can tell you that as a consequence of the legislated difference between the cost of corn and the cost to refiners of raw sugar, HFCS (High Fructose Corn Syrup) replaced sugar, of both foreign and domestic origin in the manufacture of our nation's soft drinks. On an industry basis the soft drink bottling industry was the U.S. sugar industry's largest customer. The only reason for the change was price, HFCS cost the bottlers half as much as sugar and at a differential like that even quality of product is subject to the test of adequacy. Part of the loss to the sugar industry was about one third of its volume. One of the ensuing results was the immediate creation of an excess of refining capacity and as that excess capacity began pursuing less market, the new

intensity of competition forced eight refineries to close, six companies to go out of business and the few who remain struggle for survival. Curiously, it seems that on balance the principal beneficiary of the sugar program is the corn wet milling industry. In its own estimation the Government's program is working though, supporting about 12,000 farmers who grow sugar beets and sugar cane, guaranteeing a profitable market for the products of both and an insulated market for beet processors. All at no cost to the Administration but costing American homemakers about $4 billion per year and cane refiners their businesses.

Here are some market facts as they exist today:

1.	Loan Price - raw cane sugar	$18.00 cwt.
2.	Loan Price - refined beet sugar	21.16 cwt.
3.	Market stabilization price raw cane sugar	21.76 cwt.
4.	Raw sugar quoted NYCS & CE #14 market Jan. '88 contract	
	a. 96 degree basis CIF	21.78 cwt.
	b. 100 degree basis CIF	23.30 cwt.
5.	Refined beet sugar - bulk granulated in rail cars FOB factory	$22.50 - 23.50 cwt.
6.	Refined beet sugar - granulated in 5# bags, 12-5# bags per bale	$15.50/60# bale or $25.85/cwt.

It does not require deep involvement with the industry to understand that if one seller's price for finished goods (item 5 above) is the same or less than his competitors cost for raw materials (item 4b. above) the competitor is in deep trouble. That is the case with our company. We have been legislated out of business in the home territory we have diligently served since our beginning. Now we find ourselves in the strange and uncomfortable position of asking for our govenment's permission to seek alternate opportunities with foreign customers in order to survive. Believe me, it is not our choice to apply for any drawback. Our choice would be a release from this convoluted nightmare of a subsidy program and a return to the free enterprise system that we believe is the foundation for America's strength. We would gladly exchange any drawback privileges for a level competitive opportunity in our basic domestic market. But that doesn't seem to be in the cards, so until it is we are faced with desperate decisions crucial to our corporate life. Decisions that include the pursuit of export sales to foreign purchasers. But, without the refund of previously paid import duties and fees even these sales will be impossible. Without changes in current Government programs, the future of the sugar refining industry in the U. S. is perilous at best. Alchemy is not yet a perfected science and the loaves and fishes incident was unique. How much of the previously paid duties and fees we would seek to recover is subject to factors beyond desire, such as:

1. An ability to participate in an export program without interference with our service to historical U. S. customers.

2. The availability of an export market for refined sugar.

3. A cost/revenue relationship in any such export market that would produce some profit margin.

In the period of 1977 thru 1985, the Imperial Sugar Company made export shipments and applied for recovery of previously paid duties and fees on tonnage that amounted to slightly more than 3% of our eligibility. That bit of history illustrates the previous extent of our interest in export sales and drawback recovery. However, during that time period we were able to compete in our basic trade area, albeit with declining ability to generate profit. We were able to offer regular and steady employment to our full workforce and maintain an efficient level of refinery operations. Such is not the case today--today we deal with employee layoff and shortened and irregular work schedules. Today we have an active interest in export and drawback primarily because it appears to be the only hope for survival. If it's at all possible we will be participants. As a practical matter it seems unlikely that we could apply for more than 75% of our entitlement over the time period suggested. Referring to our previous enumeraton of dollar amounts of drawback available and applying the 75% factor, the amount applied for could be approximately $42,700.000. You must understand that any amount applied for would only serve to modify the cost of access to the export market. Whatever is recovered in the form of drawback would be used to liquidate the difference in the cost of producton and transportation between our refined sugar and that of subsidized foreign competition. The potential net recovery from these hcped for export sales will be only a fraction of the amount of drawback recovered. You must also understand this is not just another profit opportunity our industry is trying to create for itself---it's a matter of survival.

Exhibits A-H follow:

Exhibit A-1

Department of the Treasury
U.S. Customs Service
Customs Form 3311 (9-30-75)

ENTRY RECORD

1. ENTRY CODE	2. BOND CODE	FORM APPROVED O.M.B. No. 48-R0255
1	5	

3. IMPORTER OF RECORD NUMBER*
74-0704500-0

CHANGE LIQUIDATIONS ONLY
Total Estimated Amt. Paid

ENTRY CODES—
1. Consumption Duriable
2. Vessel Repair
3. Appraisement
4. Information
5. Drawback
6. Bonded A/C Fuel
7. Consumption Free

BOND CODES—
1. Single Entry (any type)
2. CF 7553 (Consump. Term)
3. CF 7563A (Temp. Imp.)
4. CF 7569 (Vessel Term)
5. CF 7595 (General Term)
6. CF 7611 (Drawback Term)

4. ULTIMATE CONSIGNEE NUMBER*
74-0704500-0

Abstracted Duty

5a. DATE OF ENTRY
3-5-79

5b. ENTRY NUMBER
79 101779

6. REFERENCE NUMBER*

Abstracted Tax

7. DUTY
$ 2,519,550.23

8. I.R. TAX
$

* (Show numbers as appropriate.)

9. SURETY CODE
073

10. DESCRIPTION OF MERCHANDISE
40,357,229 POUNDS BRAZILIAN BULK RAW SUGAR - APOSTOLOS ANDREAS #1

11. PORT CODE
2201

12. MISSING DOCUMENTS
SPECIAL CUSTOMS INVOICES

LIQUIDATOR CODE
(Customs Use Only)

I HEREBY make application to make entry prior to production of missing document(s) named above.

SIGNATURE
IMPERIAL SUGAR COMPANY
By:
Clarence W. O'Donohoe

(Triplicate)

Exhibit A-2

CONSUMPTION ENTRY

U.S. CUSTOMS SERVICE

MAR 5 1979 RECORD COPY C CASHIER'S COPY C

This Space For Customs Use Only		Form approved. O.M.B. No. 48-R0217.	This Space For Customs Use Only	
BLOCK AND FILE NO.	M.O.T.		ENTRY NO. AND DATE	79 101779
	MANIFEST NO.			
FOREIGN PORT OF LADING	U.S. PORT OF UNLADING	Dist. and Port Code 2201	Port of Entry Name GALVESTON, TEXAS	Term Bond No. GTB

Importer of Record (Name and Address)
IMPERIAL SUGAR COMPANY, POST OFFICE BOX 449, GALVESTON, TEXAS 77553

For Account of (Name and Address)
SAME

Importing Vessel (Name) or Carrier	B/L or AWB No.	Port of Lading	I.T. No. and Date
APOSTOLOS ANDREAS #1 (GREEK)	NONE	RECIFE	
Country of Exportation	Date of Exportation	Type and Date of Invoice	I.T. From (Port)
BRAZIL	2/18/79	P. F.	
U.S. Port of Unlading	Date of Importation	Location of Goods—G.O. No.	I.T. Carrier (Delivering)
GALVESTON, TEXAS	3/2/79	"T" HEAD, PIER 35	

MARKS & NUMBERS OF PACKAGES. COUNTRY OF ORIGIN OF MERCHANDISE (1)	DESCRIPTION OF MERCHANDISE IN TERMS OF T.S.U.S. ANNO. NUMBER AND KIND OF PACKAGES (2)		ENTERED VALUE IN U.S. DOLLARS (5)	T.S.U.S. ANNO. REPORTING NO. (4)	TARIFF OR I.R.C. RATE (5)	DUTY AND I.R. TAX (6)	
	GROSS WEIGHT IN POUNDS (2a)	NET QUANTITY IN T.S.U.S. ANNO. UNITS (2b)				Dollars	Cents
			NOT RELATED				
NONE	40,357,229#	40,357,229#	$3,639,718	155.2045	2.89312¢	$1,167,58	3
							0(
				956.15	3.35¢	1,351,96	7
							1
						$2,519,550	.2
			(PEIT	$3,639,718)			
C/O BRAZIL	For Release to Carrier only		(CHGS	306,283)			
	UNMANUFACTURED CANE OR BEET SUGAR TESTING BY THE POLARISCOPE ABOVE 96°						

MISSING DOCUMENTS	THIS SPACE FOR CUSTOMS USE ONLY
SPECIAL CUSTOMS INVOICES	

I declare that I am the ☐ nominal consignee and that the actual owner for customs purposes is as shown above, or ☐ consignee or agent of the consignee. I further declare that the merchandise ☐ was or ☐ was not obtained in pursuance of a purchase or agreement to purchase. I also include in my declaration all the statements in the declaration on the back of this entry.

MARCH 5, 1979 DATE

IMPERIAL SUGAR COMPANY (Signature) ☐ Principal ☐ ATTY-IN-FACT ☐ Officer of the corporation ☒ (Title) ☐ Authorized agent

Clarence W. O'Donohoe (Address)

CUSTOMS FORM 5-12-73 7501

Exhibit A-2

CONSUMPTION ENTRY

BUREAU OF CUSTOMS MAR 5 1979

PERMIT	Form approved. Budget Bureau No. 48-R2354.	This Space For Customs Use Only. ENTRY NO. AND DATE 79 101779	
	Dist. and Port Code 2201	Port of Entry Name GALVESTON, TEXAS	Term bond No. GTB

Importer of Record (Name and Address)
IMPERIAL SUGAR COMPANY, POST OFFICE BOX 449, GALVESTON, TEXAS 77553

For Account of (Name and Address)
SAME

Importing Vessel (Name) or Carrier	B/L or AWB No.	Port of Lading	I.T. No. and Date
APOSTOLOS ANDREAS #1 (GREEK)	NONE	RECIFE	
Country of Exportation	**Date of Exportation**	**Type and Date of Invoice**	**I.T. From (Port)**
BRAZIL	2/16/79	P. F.	
U.S. Port of Unlading	**Date of Importation**	**Location of Goods—G.O. No.**	**I.T. Carrier (Delivering)**
GALVESTON, TEXAS	3/5/79	"T" HEAD, PIER 35	

MARKS & NUMBERS OF PACKAGES COUNTRY OF ORIGIN OF MERCHANDISE (1)	DESCRIPTION OF MERCHANDISE IN TERMS OF T.S.U.S. ANNO. NUMBER AND KIND OF PACKAGES (2)	GROSS WEIGHT IN POUNDS (2a)	NET QUANTITY IN T.S.U.S. ANNO. UNITS (2b)	EXAMINATION ORDER AND OTHER ACTION TO BE TAKEN
NONE C/O BRAZIL	UNMANUFACTURED CANE OR BEET SUGAR TESTING BY THE POLARISCOPE ABOVE 96°	40,357,229#	40,357,229#	

(Use carbon on this line)

(CUT CARBON ON THIS LINE)

TO THE INSPECTOR. Articles shall be examined, sampled, weighed, gauged, measured, stamped, and/or disposed of as directed. Release shall be made only to or upon the order of the carrier. Reports shall be endorsed hereon.

Customs Officer

Examined or sampled as directed.	Weighed, gauged, measured, stamped as directed (check one box, if applicable).	(Pier or Place)
	☐ Entered ☐ Invoiced Quantities Accepted ☐ See Reverse ☐ See Attached Form 6001	Landed, released, or disposed of as directed, except as noted on the reverse. (If no exceptions show "None" in the following space.)
Date Examiner or Sampler	Date Weigher or Gauger	Date Inspector

CUSTOMS FORM NOV. 66 7501-A

(3)

Exhibit A-2

AFFIDAVIT ON ENTRY OF RAW SUGAR

STATE OF TEXAS |
COUNTY OF GALVESTON |

RE: S/S APOSTOLOS ANDREAS #1 Entry No. 79 101779

I, CLARENCE W. O'DONOHOE, declare under oath that the Raw Sugar imported by the Imperial Sugar Company, and covered by the aforesaid entry, is intended to be further processed at the Refinery at Sugar Land, Texas.

Clarence W. O'Donohoe
Attorney-In-Fact

Declared to under oath before me this 5th day of MARCH, 1979.

Mary Frances Kirchen
MARY FRANCES KIRCHEN
NOTARY PUBLIC IN AND FOR
GALVESTON COUNTY, TEXAS

(4)

Exhibit A-2

CONSUMPTION ENTRY # 79 101779

PROFORMA INVOICE

GALVESTON, TEXAS 77553

APOSTOLOS ANDREAS #1

MARCH 5, 1979

155.2045

2.89312¢ Per Lb. Less, Etc.

CERTAIN BRAZILIAN PRODUCERS

TO: IMPERIAL SUGAR COMPANY

40,357,229 POUNDS BRAZILIAN RAW SUGAR

NET WEIGHT:	40,357,229 POUNDS @ 9.01875¢ - - -	$3,639,717.59
LESS FREIGHT:		$3,639,718.00

Exhibit A-2

TO BE COMPLETED BY BROKER/IMPORTER
Broker/Importer Name IMPERIAL SUGAR COMPANY
Entry Number _____
Importing Vessel or Carrier APOSTOLOS ANDREAS #1
Bill of Lading HAVE NOT RECEIVED

[x] I wish the time of entry for this shipment to be the time these documents are presented to the appropriate Customs officer. The Importing vessel or carrier has arrived within the port limits. Arrival date MARCH 2, 1979

[ ] I wish the time of entry for this shipment to be the time the importing vessel or carrier arrives within the port limits. The importing vessel or carrier has NOT arrived within the port limits. The anticipated date of arrival is _____

IMPERIAL SUGAR COMPANY
By: Clarence W. O'Donohoe
Authorized Signature
Broker/Importer

Clarence W. O'Donohoe

For Customs Use Only

Received U.S. Customs

Lu Warren
Signature of Customs Officer

District Director of CUSTOMS RECEIVED MAR 5 1979 Galveston, Texas

Date

Broker/Importer: If the second box is checked, state the date and time the importing vessel or carrier arrived within the port limits, _____ _____

_____
Authorized Signature
Broker/Importer

Exhibit A-3

IMPERIAL SUGAR COMPANY

GALVESTON, TEXAS

MARCH 5, 1979

No. 73986

PAY TO THE ORDER OF BUREAU OF CUSTOMS

$2,519,550.23

TWO MILLION FIVE HUNDRED NINETEEN THOUSAND FIVE HUNDRED FIFTY AND 23/100 DOLLARS * *

TO UNITED STATES NATIONAL BANK
GALVESTON, TEXAS

AUTHORIZED SIGNATURE

Clarence W. Woodhouse

AUTHORIZED SIGNATURE

⑆113100041⑆ 01-089-4 ⑈0251955023⑈

20-06-09-7201 — PAY TO THE ORDER OF — ANY FEDERAL RESERVE BANK OR BRANCH OR CHECK TO THE FOR DEPOSIT OF THE U.S. TREASURY OF PAYABLE IN U.S. THIS CHECK IS TO BE AT PAR. — DO NOT HAVE PAID AT PAYMENT AND MUST BEAR NAME OF CUSTOMS H.P. 50 GALVESTON, TEXAS — REGIONAL GALVESTON, TEXAS

Exhibit A-4

IMPERIAL SUGAR COMPANY

GALVESTON, TEXAS

No. 74019

MAY 8, 1979

PAY TO THE ORDER OF BUREAU OF CUSTOMS $ 2,482.37

** TWO THOUSAND FOUR HUNDRED EIGHTY TWO AND 37/100 DOLLARS **

TO UNITED STATES NATIONAL BANK
GALVESTON, TEXAS

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

:113100046: D#-DE9-4# "0000248237"

Exhibit A-4

Department of the Treasury
United States Customs Service
Customs Form 6415 (4-2 74)

1. REPORT DATE	2. RCVD IN LAB.	3. LAB NO.
4-9-79	3/15 & 3/22	as below
4. LABORATORY	5. ENTRY DATE	6. ENTRY NO.
New Orleans	,	CE-79-101779
8. PORT	9. TSUSA NO.	13. TOTAL INVOICE VALUE (This Merchandise)
Galveston		

19 CFR 151.31 — LABORATORY REPORT

7. SAMPLE		12. MAKER
Raw Sugar		Philipp Bros.
10. SUBMITTED BY	11. ORIGIN	
District Director	Brazil	

14. STATED COMPONENTS

15. IMPORTER: Imperial Sugar Company

16. OTHER DATA - Mix No. (Sugar), No. Containers & Sampling Unit No. (Wool): Mix Nos. 1 - 58 Cargo No. G-10

17. MARKS: M/V Apostolos Andreas

18. INFORMATION REQUESTED: Average Polarization

Mix No.	Average Polarization
1 & 2	98.17
3 & 4	98.32
5 & 6	98.23
7 & 8	98.18
9 & 10	98.23
11 & 12	98.21
13 & 14	98.19
15 & 16	98.16
17 & 18	98.19
19 & 20	98.20
21 & 22	98.29
23 & 24	98.21
25 & 26	98.29
27 Only	98.31

avg 98.17

(2)

Exhibit A-4

IMPERIAL SUGAR COMPANY

GALVESTON, TEXAS

DUTY AND COMPENSATORY TAX

VESSEL: APOSTOLOS ANDREAS #1

DUTY

COMMENTS	GOV'T. NET WT.	GOV'T. TEST	DUTY RATE	AMOUNT
	40,326,390	98.17		
		100.000000		
	Less	98.170000		
		1.830000		
	(1.83 x .0421875)	.07720		
	Duty Rate - 100%	2.98125		
	Less	.07720		
		2.90405	1,171	098.53
Import Fee:	40,326,390	3.35	1,350	934.07
		6.25405		
			TOTAL DUTY ON CARGO AND SWEEPS	2,522 032.60
			PROVISIONAL DUTY PAID	2,519 550.23
			SUPPLEMENTAL DUTY DUE	2 482.37

COMPENSATORY TAX

COMMENTS	GOV'T. NET WT.	GOV'T. TEST	TAX RATE	AMOUNT
			TOTAL COMPENSATORY TAX	

(3)

Exhibit A-4

Treasury of the Treasury
U.S. Customs Service
Customs Form 6415 (4-2-74)

		4-9-79	as below
19 U.S.C. 1499, 19 C.F.R. 151.31 C.R.	LABORATORY REPORT	4. LABORATORY: New Orleans	5. ENTRY DATE	6. ENTRY NO.: CE-79-101779
7. SAMPLE: Raw Sugar		8. PORT: Galveston	9. TSUSA NO.	13. TOTAL INVOICE VALUE (This Merchandise)
10. SUBMITTED BY	11. ORIGIN	12. MAKER		
14. STATED COMPONENTS			15. IMPORTER	
16. OTHER DATA - Mix No. (Sugar) No. Containers & Sampling Unit No. (Wool): Cargo No. G-10			17. MARKS	
18. INFORMATION REQUESTED: Page 2				

Mix No.	Average Polarization
28 & 29	98.06
30 & 31	98.12
32 & 33	98.16
34 & 35	98.21
36 & 37	98.08
38 & 39	98.22
40 & 41	98.20
42 & 43	98.22
44 & 45	98.16
46 & 47	98.24
48 & 49	98.04
50 & 51	98.08
52 & 53	98.03
54 & 55	98.13
56 & 57	97.91
58 Only	98.12

19. CHEMIST: R.C. Nipro

20. DIRECTOR: F. V. Eggerton, Chief, Organic Branch

(4)

Exhibit A-5

BILL OF LADING

N.º 01

CLEAN ON BOARD

PARTIAL SHIPMENTS PERMITTED

TRANSHIPMENT PROHIBITED

"FREIGHT PAYABLE AS PER CHARTER PARTY"

ORIGINAL

"General Average" shall be adjusted according to YORK - ANTWERP RULES 1974"

JANUARY 16TH, 1979

AT NEW YORK

SHIPPED in apparent good order and condition by INSTITUTO DO AÇUCAR E DO ALCOOL

in and upon the good Steam Ship called the "APOSTOLOS ANDREAS"

whereof PETROS IOANNIS DAVLOS is Master for this present Voyage, and now lying in the PORT OF RECIFE PE - BRASIL and bound for 1/2 PORTS U.S.GULF OR IN CHARTERERS OPTION 1/2 PORTS U.S.ATLANTIC(EXCLUDING ALBANY)

23.100.000(TWENTY THREE MILLION AND ONE HUNDRED THOUSAND)KILOS OF BRAZILIAN RAW CANE SUGAR WITH MINIMUM POLARIZATION 96 DEGREES, IN BULK.

SHIPPERS DECLARED NET WEIGHT SAID TO BE	SHIPPERS DECLARED GROSS WEIGHT SAID TO BE
23.100.000 KILOS	**********

being marked and numbered as in the margin and are to be delivered in the like good order and condition at the aforesaid Port of 1/2 PORTS U.S.GULF OR IN CHARTERERS OPTION 1/2 PORTS U.S.ATLANTIC(EXCLUDING ALBANY)

(The Act of God, perils of the sea, fire on Board, in hulk or craft, or on shore, barratry of the master, and crew, enemies, pirates, and thieves, arrests and restraints of princes, rulers and people, collisions, stranding and other accidents of navigation accepted, even when occasioned by negligence, default or error in judgment of the Pilot, Master, Mariners, or other servants of the Shipowners. Not accountable for any loss or damage arising from explosion, bursting of boilers, breaking of shafts, or any latent defect in the machinery or hull not resulting from want of due diligence by the Owners of Ship or any of them or by the Ship's Husband or Manager) With liberty to call at any ports in any order to sail without Pilots, and to tow and assist vessels in distress, and to deviate for the purpose of saving life or property.

unto TO ORDER or to assigns

paying Freight for the said goods

Primage and Average Accustomed.

IN WITNESS whereof the Master or Purser of the said Ship has signed to three Bills of Lading, all of this tenor and date, the one of which Bills, being accomplished the others to stand void.

SHIPPED ON BOARD

Recife, JANUARY 29TH 1979

BY MASTER'S AUTHORITY

WILLIAMS(SERVICOS MARITIMOS) LTDA. - COMMERCIAL DIRECTOR

BY MASTER'S AUTHORITY

Exhibit A-5

6

116

Exhibit A-5

4,750 LT ENDORSED TO THE ORDER OF:
SAFEWAY STORES INC.
c/o COLONIAL SUGAR COMPANY

PHILIPP BROTHERS
DIVISION OF
INGELHARD MINERALS & CHEMICALS CORPORATION

a Kempler

17,986 LT ENDORSED TO THE ORDER OF:
NATIONAL SUGAR TRADING CORP.
c/o IMPERIAL SUGAR COMPANY

PHILIPP BROTHERS
DIVISION OF
INGELHARD MINERALS & CHEMICALS CORPORATION

a Kempler

17,986 LT ENDORSED TO THE ORDER OF:
IMPERIAL SUGAR COMPANY,

NATIONAL SUGAR TRADING CORP.

117

(2)

Exhibit B-1

ACCELERATED PAYMENT REQUEST

August 24, 1961
(date)

I HEREBY REQUEST ACCELERATED PAYMENT OF DRAWBACK UNDER THE PROVISIONS OF 22.20a OF CUSTOMS REGULATIONS.

THE TOTAL AMOUNT OF DRAWBACK TO BE CLAIMED ON THE DRAWBACK ENTRY IS $ 1,861,473.39 . 99% TO BE INDICATED ON CF 5101 AS ACCELERATED PAYMENT IN THE AMOUNT OF $ 1,842,858.66 .

1. CF 7609 - Bond for Accelerated Payment of Drawback (Single Entry) attached ~~YES~~ NO.
2. CF 7611 - Bond for Accelerated Payment of Drawback (Term) attached, or on file with the Regional Commissioner. Term Bond No. _____ in the amount of $ _____. Expiration Date _____.
3. CF 7595 - General Term Bond for Entry of Merchandise (Rider - P) is on file with the Regional Commissioner in the amount of $ 2,600,000.00 . Expiration Date 8/22/82 .

Exhibit B-2

Department of the Treasury
U.S. Customs Service
ENTRY RECORD
Customs Form 5101 (9 0 77)

WAS SHIPMENT CONTAINERIZED: YES ☐

1. ENTRY CODE: 5
2. BOND CODE: 5

FORM APPROVED O.M.B. No. 48-R0211

ENTRY CODES: 1 Consumption Outside 2 Vessel Repair 3 Appraisement 4 Warehouse 5 Drawback 6 Bonded A/C Fuel 7 Consumption Free

BOND CODES: 1 Single Entry (any type) 2 CF 7553 (Consump. Term) 3 CF 7563 (A (Home Imp.) 4 CF 7565 (Vessel Term) 5 CF 7595 (General Term) 6 CF 7611 (Drawback Term)

3. IMPORTER OF RECORD NUMBER*
74-0704500-G

Importer Number of individual or firm whose name appears as importer of Record on entry.

4. ULTIMATE CONSIGNEE NUMBER*
74-0704500-G

Importer Number of individual or firm whose name appears as the ultimate Consignee on entry. If more than one owner of merchandise enter word "Unknown"

5a. DATE OF ENTRY
2/27/79
3/5/79

5b. ENTRY NUMBER
79 101718
79 101779

6. REFERENCE NUMBER*

Importer Number of individual or firm to whom Refund, Duty or Notice of Liquidation are to be sent if other than Importer of Record.

7. DUTY
$ 1,842,858.66

8. I.R. TAX
$

*(Show numbers as appropriate.)

9. SURETY CODE
749

10. DESCRIPTION OF MERCHANDISE
Hard Refined Sugar

11. PORT CODE
5301

12. MISSING DOCUMENTS

LIQUIDATOR CODE (Customs Use Only)

I HEREBY make application to make entry prior to production of missing document(s) named above.

SIGNATURE
R. E. Henderson
Secretary-Treasurer & Controller

U.S. GOVERNMENT PRINTING OFFICE: 1978-0-261-599

Exhibit B-3

DRAWBACK CALCULATION

Export of 13,200 metric tons -- 29,100,720 lbs. in 264,000 poly jute bags containing 50 kilos net weight of hard refined sugar in each bag.

Drawback claimed on raw sugar:

	Import Entry No.	Date	Vessel	Pounds Melted
First	101718	2/23/79	Nagos #1	6,718,279
Then balance from	101779	3/2/79	Apostolos Andreas #1	25,599,407

Abstract Number 174 -- 4/1 through 4/30/79
Calculated Sucrose Allowance -- 1.022553247

NAGOS NO. 1

6,718,279 lbs. raws ÷ 1.022553247 = 6,570,102 lbs. hard refined

Duty paid $2.91080/cwt.
Import Fee 3.35

$6.26080/cwt.

$$6{,}718{,}279 \text{ lbs.} \times \frac{\$6.26080}{100 \text{ lbs.}} = \$420{,}618.01$$

Drawback - $420,618.01 X 99% = $416,411.83

APOSTOLOS ANDREAS NO. 1

Total exported 29,100,720 lbs.
Less Nagos No. 1 6,570,102 lbs.

22,530,618 lbs. hard refined sugar

22,530,618 lbs. refined X 1.022553247 = 23,038,757 lbs. raws from Apostolos Andreas No. 1

Exhibit B-4

Duty paid	$2.90405/cwt.
Import fee	3.35
	$6.25405/cwt.

23,038,757 lbs. X $\frac{\$6.25405}{100 \text{ lbs.}}$ = $1,440,855.38

Drawback - $1,440,855.38 X 99% = $1,426,446.83

TOTAL DRAWBACK ALLOWANCE		DRAWBACK
Nagos No. 1	6,718,279 lbs.	$ 416,411.83
Apostolos Andreas #1	23,038,757 lbs.	1,426,446.83
Total	29,757,036 lbs.	$1,842,858.66

Exhibit C-1

Customs Form 7578

Entry No. .....

DRAWBACK ON DOMESTIC MANUFACTURES

Collection District No. .....

Port of .....

MANUFACTURED BY

.....

EXPORTED BY

.....

Date of Clearance .....

DECLARATION OF EXPORTATION

I, R. E. Henderson (member of firm, officer

presenting corporation, agent, or attorney), of Imperial Sugar Company

lare that, according to the best of my knowledge and belief, the particulars of exportation ted in this entry and the notices of exportation or lading are correct, and, that such rchandise is not to be reladed in nor returned to the United States, nor is it to be consumed supplies or stores on the exporting vessel or vehicle.

IMPERIAL SUGAR COMPANY

ate August 19, 1981

R. E. Henderson

R. E. Henderson — Exporter or Agent.
Secretary, Treasurer & Controller

DECLARATION OF LADING OR USE

I, ... (member of firm, officer

presenting corporation, agent, or attorney), of .....

eclare that, according to the best of my knowledge and belief, the particulars of lading (or use) ated in this entry, the notices of lading, and receipts are correct, and that such merchandise not to be reladed in the United States or any of its possessions, but is to be (has been)

sed on the vessels or aircraft named herein for .....

.....

.....

(State specifically, such as supplies, equipment, maintenance, or repair)

s specified in section 309 of the Tariff Act of 1930, as amended, or I. R. C. section 4222.

Date .....

.....

Shipper or Agent.

This form may be printed by private parties, provided it conforms to official form in size, wording, arrangement, and quality and color of paper. For sale by district directors of customs.

GPO 914 960

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Exhibit C-2

84-220 O - 88 - 5

DRAWBACK ENTRY FOR EXPORTED ARTICLES

U.S. CUSTOMS SERVICE

Port of Houston, August 19, 1981

ENTRY FOR DRAWBACK filed by Imperial Sugar Company, Sugar Land, Texas, on articles exported under Notices of Exportation, notices and the articles covered thereby being particularly set forth here below.

Drawback claimed under T. D. 44291

Exporting Vessel	Date of Clearance	Name of Shipper	No. of Packages	Quantity and Description of Exported Articles
SS "Sea"	8/11/81	Imperial Sugar Co.	204,000	Each containing 50 kilos net weight, each of hard refined sugar for a total of 11,200 metric tons of hard refined sugar or 24,192,720 lbs. of hard refined sugar.

I, R. E. Henderson, of the firm of Imperial Sugar Company, declare that the articles described above were owned by Imperial Sugar Company, at Sugar Land, Texas; that same were delivered to or for the account of the above-named shipper; that such articles have not been in use and have not become damaged or deteriorated; that the records of this firm are so kept and the articles described herein were so stored, segregated, or marked as to preserve their identity and establish that they are the articles described in and covered by certificate(s) of manufacture No(s). C.M. #05276 on file with the district director of customs at New York; and that such records and method of storage, segregation, or marking are open to inspection by customs officers at all reasonable hours.

R. E. Henderson, Shipper.

Exhibit D-1

Refinery Abstract

NO. 174

Abstract from the refinery records of IMPERIAL SUGAR COMPANY, located at Sugar Land, Texas, covering sugars melted and hard and soft refined sugars and syrups produced therefrom during the period from April 1, 1979 to April 30, 1979

Raw Sugar Stock and Melt Record

Import Entry No.	Number of Bags	Date of Importation or Arrival	Vessel	Country of Origin	Name of Importer	Pounds Melted	Polarization	Pounds Sucrose Melted
101003	Bulk	1/13/79	Akritas #1	Mexico	Imperial Sugar Company	8,460,004	97.668	8,262,717
101614	Bulk	2/18/79	Aries Carrier #1	Nicaragua	Imperial Sugar Company	11,509,790	97.916	11,269,926
101706	Bulk	2/23/79	Nagoa #1	El Salvador	Imperial Sugar Company	11,197,131	98.189	10,994,351
101718	Bulk	2/23/79	Nagoa #1	El Salvador	Imperial Sugar Company	6,718,279	98.189	6,596,611
101779	Bulk	3/2/79	Apostolos Andreas #1	Brazil	Imperial Sugar Company	25,599,407	98.010	25,089,979
			Domestic Non-Dutiable Sugars		Imperial Sugar Company	134,195	98.653	132,387
						63,618,806	97.9992787	62,345,971

Exhibit D-2

C. M. # 05276

Continuation of Refinery Abstract No. 174

SYRUP PRODUCTION RECORD				REFINED SUGAR PRODUCTION RECORD							MARKET VALUE	
Date of Boiling	Refinery Serial Production No.	Quantity Syrup in Gallons	Pounds Sucrose	Date of Production	Refinery Serial Production No.	Hard or Soft Refined	Net Weight in Pounds	Polarization	Pounds Sucrose		Per 100 Pounds	TOTAL
4/2/79 to 4/30/79	9DA-123 to 9DZ-123 9D1-123 to 9D4-123	199,270	743,712	4/1/79 to 4/30/79	9DA-123 to 9DZ-123 9D1-123 to 9D4-123	HARD	56,449,792	100.000	56,449,792			
						LIGHT SOFT	855,136	92.776	793,36			
						MED. SOFT	1,340,612	90.888	1,218,45			
						DARK SOFT	569,591	89.371	509,04			
						BLACKSTRAP MOLASSES (199,270 gallons)			743,71			
						TOTAL SUCROSE CONTAINED IN PRODUCTION			59,714,36			
	For use of U. S. Customs Department only.				NOTE: All packages of hard and soft refined produced under this abstract were marked with a code number to indicate date of production from which the refinery abstract number can be ascertained.							

RECAPITULATION	Pounds	Polarization	Pounds Sucrose
Stock in Process at Beginning of Period	10,519,818	73.410015 3	7,722,600
Sugar Melted During Period	63,618,806	97.999274 7	62,345,971
			70,068,571
Stock in Process at End of Period	11,488,910	76.977430 0	8,843,860
Sucrose Used in Production			61,224,703
Sucrose Contained in Production			59,714,369
Loss in Refining			1,510,334

TEST OF LOSS

Sucrose Contained in Production 59,714,369 / Sucrose Used in Production 61,224,703 = 97.531297 % = 2.468703 % loss

We, Roy E. Henderson, the Secretary & Controller and Stanley E. Doroneki, the Head Superintendent at the Sugar Land refinery of Imperial Sugar Company, located at Sugar Land, Texas, do solemnly and truly declare that each of the statements contained in the foregoing abstract is true to the best of our knowledge and belief as can be verified by the refinery records, which have been kept in accordance with Section 12.6 (b) of the Customs Regulations and which are at all times open to the inspection of officers of the customs.

Dated February 12, 1980

Declared before me this 12 day of February, 1980

Roy E. Henderson

Stanley E. Doroneki

Carlton A. Batten Notary Public

CARLTON A. BATTEN

Notary Public in and for Fort Bend County, Texas

My Commission Expires June 30, 1980

*Market Value Columns for use of U. S. Customs Department only

Exhibit D-3

IMPERIAL SUGAR COMPANY
SUGAR LAND, TEXAS

Statement of market values of refined sugars and syrup for the manufacturing period of April 1, 1979 thru April 30, 1979 covered by our Refinery Abstract No. 174 :

Hard Refined	(Bulk)		$ .19257	Per Lb. Net Value (2% Deducted)
Soft Refined	(Bulk)	Light Color) Medium Color) Dark Color)	.20433	Per Lb. Net Value (2% Deducted)
Syrup	(Bulk)	Blackstrap	.47385	Per Gal. Net Value (No Discount)

I, Roy E. Henderson, Secretary, Treasurer & Controller of Imperial Sugar Company, do solemnly and truly declare that the values shown above are true to the best of my knowledge and belief, and can be verified by our records which are at all times open to the inspection of the officers of U. S. Customs.

February 12, 1980

Roy E. Henderson

Roy E. Henderson

Declared before me this 12 day of February, 1980 .

Carlton A Batten

Notary Public in and for
Fort Bend County, Texas.

CARLTON A. BATTEN
Notary Public in and for Fort Bend County, Texas
My Commission Expires June 30, 1980

Exhibit D-4

IMPERIAL SUGAR COMPANY

Sucrose Allowance Computation Worksheet

Abstract 174 - April 1979

1. Total Market Value	Pounds	Market Value per pound	Total Market Value
Hard Refined Sugar (Bulk)	56,449,792	$.19257	$10,870,536.45
Soft Refined (Bulk) - Light	855,136	.20433	174,729.94
Soft Refined (Bulk) - Medium	1,340,612	.20433	273,927.25
Soft Refined (Bulk) - Dark	569,591	.20433	116,384.53
Syrup (Gallons)	199,270	.47385	94,424.09
Market Value			$11,530,002.26

2. Pounds Sucrose Allowable Per $1 of Market Value.

Sucrose Used - Per Abstract 61,224,703
Market Value - Per Above 11,530,002.26 = 5.310033911

Pounds Sucrose Allowable per $1 of market value.

Exhibit D-5

IMPERIAL SUGAR COMPANY
Sucrose Allowance Computation
Abstract 174 - April 1979

1 Manufacture	Lbs.	2 Polarization Degrees	3 Market Value Per Pound	4 Sucrose Allow. Per Unit Pounds	5 Total Sucrose Allowance Pounds
Hard Refined Sugar (Bulk)	56,449,792	100.00	$.19257	1.02255323	57,722,917
Soft Refined (Bulk)					
Light	855,136	92.776	.20433	1.084999229	927,822
Medium	1,340,612	90.888	.20433	1.084999229	1,454,563
Dark	569,591	89.371	.20433	1.084999229	618,006
			Per Gallon		
Syrup (Bulk)					
Blackstrap (Gallons)	199,270[1]		.47385	2.516159569	501,395
Total					61,224,703

(1) Pounds Sucrose per Abstract 174 = 743,712 pounds or 3.732 pounds per gallon

Sucrose in manufacture (Col. 1 x Col. 2) = 59,714,369/61,224,703 = 97.5331297%
Sucrose used in manufacture. or 2.4668703% loss

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE
CUSTOMS FORM 7513-A (10-10-83)

NOTICE OF EXPORTATION OF ARTICLES WITH BENEFIT OF DRAWBACK

DRAWBACK ENTRY WILL BE FILED AT PORT OF

FORM APPROVED O.M.B. NO. 51-R1066

CERTIFICATE OF EXPORTATION

The records of this office show that the drawback articles described herein, in the quantities stated, were exported from this port by the exporter named herein or as for herein, except as indicated below:

1. EXPORTER (Principal or seller-licensee and address)

IMPERIAL SUGAR COMPANY
P.O. BOX 9
SUGAR LAND, TEXAS

2. DOCUMENT NO. (Include Notice of Exportation Number)

3. EXPORT REFERENCES*

4. CONSIGNED TO*

STATE TRADING CORPORATION OF INDIA LTD.,
NEW DELHI

5. FORWARDING AGENT (Name and address--References)*

STONE FORWARDING COMPANY INC.
P.O. BOX 118
GALVESTON, TEXAS 77553 FMC LIC. #345

6. POINT AND COUNTRY OF ORIGIN*

6. NOTIFY PARTY/INTERMEDIATE CONSIGNEE (Name and address)*

SAME

7. DOMESTIC ROUTING/EXPORT INSTRUCTIONS*

DATE CLEARED OR ACCEPTED | DISTRICT DIRECTOR OF CUSTOMS

AT | DATE

11. METHOD OF TRANSPORTATION
[X] VESSEL (Name, if any) [ ] AIR [ ] OTHER (Specify)

8. PIER OR AIRPORT
PIER 41, GALVESTON, TEXAS

12. DATE OF EXPORTATION (Not required for vessel shipments)

9. EXPORT CARRIER (Vessel, airline, carrier or car no. & initial)
S"SENJ" (YUGOSLAVIA FLAG)

13. PORT OF LOADING
GALVESTON, TEXAS

10. FOREIGN PORT OF UNLOADING (Vessel and air only)*
CALCOTTA, INDIA

14. ONWARD INLAND ROUTING*

15. PLACE AND COUNTRY OF ULTIMATE DESTINATION
INDIA

*FURNISHING OF THIS INFORMATION IS OPTIONAL

16. MARKS AND NUMBERS	17. NO. OF PKGS.	18. DESCRIPTION OF ARTICLES	19. GROSS WEIGHT (Pounds)	20. MEASUREMENT	21. SCHEDULE B COMMODITY NO.	22. NET QUANTITY (Show Unit)	23. VALUE* (Nearest Dollar)
A CANE REFINED SUGAR ----- IMPERIAL SUGAR CO.) KILOS NET WT. SE NO HOOKS NTERNATIONAL SYMBOL		TWO HUNDRED SIXTY FOUR THOUSAND BAGS (264,000) BAGS CANE REFINED SUGAR 6-DEST	29,370,000 LBS.	----------	0 155.2025	29,100720	$338000.

TO DIRECTOR After certificate of exportation has been executed, please forward this notice to:

IMPERIAL SUGAR CO. P.O. BOX 9 SUGAR LAND

The drawback articles described in this Notice of Exportation are to be exported as stated herein and are not to be returned to the United States, and to the best of my knowledge and belief such articles have not been used and are

Exhibit 6-1

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SUGAR LAND, TEXAS

T STONE REF. #397
FMC LIC #345

Exhibit F

Consignee D:

TO ORDER

Notifying Address

STATE TRADING CORPORATION OF INDIA LTD.,
NEW DELHI

COPY
NOT NEGOTIABLE

Local vessel | from

Ocean vessel | Port of loading

S/S "SENJ" (YUGOSLAVIA FLAG) GALVESTON, TEXAS U.S.A.

Port of discharge | Final destination (if on-carriage) | Freight payable XX | Number of original Bs/L

ONE SAFE INDIAN PORT | AS PER CHARTER PARTY | THREE (3)

Marks and Nos Carrier only responsible for loading marks	Number and kind of packages: Description of goods	Gross weight	Measurement
USA CANE REFINED SUGAR IMPERIAL SUGAR CO. 50 KILOS NET WT. USE NO HOOKS INTERNATIONAL SYMBOL STOWAGE: HOLD NOS. 1,2,3,4,5. TRANSHIPMENT NOT PERMITTED //FREIGHT PAYABLE AS PER CHARTER PARTY//	TWO HUNDRED SIXTY FOUR THOUSAND (264,000) BAGS USA CANE REFINED SUGAR LOADED CLEAN ONBOARD GALVESTON, TEXAS AUGUST 10, 1981 BY: [signature] MASTER S/S "SENJ"	111.25/BAG 29,370,000 LBS. GROSS 13,322.145 METRIC TONS 110.23/BAG 29,100,720 LBS. NET 13,200.000 METRIC TONS	

"ALL TERMS, CONDITIONS, AND EXCEPTIONS OF CHARTER PARTY DATED JULY 17, 1981 GOVERNING THIS VOYAGE AND ANY ADDENDA THERETO TO BE CONSIDERED AS INCORPORATED HEREIN AS IF FULLY WRITTEN ANYTHING TO THE CONTRARY CONTAINED IN THIS BILL OF LADING NOTWITHSTANDING."

Freight payable as per CHARTER-PARTY dated JULY 17, 1981

FREIGHT ADVANCE.

Received on account of freight:

Time used for loading ____ days ____ hours.

SHIPPED at the Port of Loading in apparent good order and condition on board the Vessel for carriage to the Port of Discharge or so near thereto as she may safely get the goods specified above.

All the terms, conditions, liberties, and exceptions of the Charter-Party are herewith incorporated.

This Bill of Lading shall have effect subject to the provisions of any legislation relating to the carriage of goods by sea which incorporates the rules relating to Bills of Lading contained in the International Convention, dated Brussels 25th August, 1924 and which is compulsorily applicable to the contract of carriage herein contained. Such legislation shall be deemed to be incorporated herein, but nothing herein contained shall be deemed a surrender by the Carrier of any of its rights or immunities or an increase of any of its responsibilities or liabilities hereunder. If any term of this Bill of Lading be repugnant to any extent to any legislation by this clause incorporated, such term shall be void to that extent but no further. Nothing in this Bill of Lading shall operate to limit or deprive the Carrier of any statutory protection or exemption from, or limitation of, liability.

Weight, measure, quality, quantity, condition, contents and value unknown.

IN WITNESS whereof the Master or Agent of the said Vessel has signed the number of Bills of Lading indicated below all of this tenor and date, any one of which being accomplished the others shall be void.

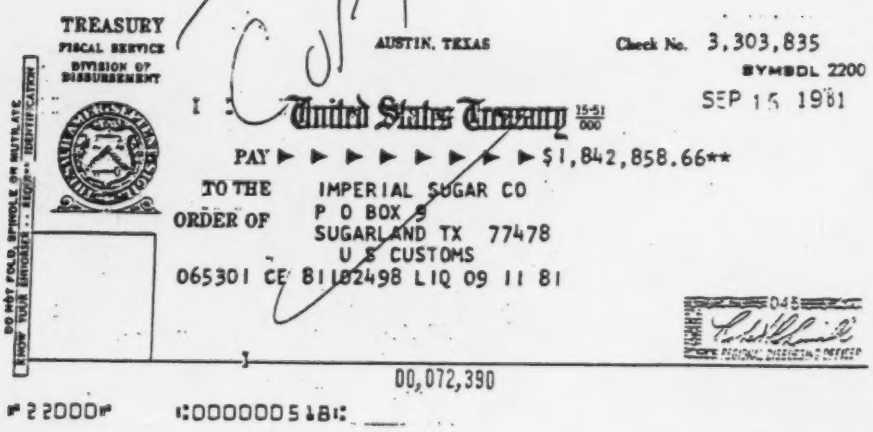
Number of Bs/L signed	Place and date of issue
3/3	LOADED CLEAN ONBOARD GALVESTON, TEXAS AUGUST 10, 1981

Signed by MASTER OF S/S "SENJ"

[signature]

Rec'd 9/15/81

Exhibit G



NET AMOUNT OF ELIGIBLE DRAWBACK

1977 - 1982

TOTAL $56,935,200

Exhibit H

Senator MELCHER. Thank you, Mr. Hanna.

We will now hear from Mr. Sprague from Savannah Foods and Industries.

STATEMENT OF WILLIAM W. SPRAGUE, JR., PRESIDENT, SAVANNAH FOODS & INDUSTRIES, INC., SAVANNAH, GA; ACCOMPANIED BY JOEL WILLIAMS AND SALVATORE CARAMAGNO

Mr. SPRAGUE. Mr. Chairman, I am Bill Sprague. I am the president and CEO of Savannah Foods & Industries. We are delighted to be here today in some ways; in some ways we are not. You have heard the sad litany.

My company owns three sugar refineries and five beet sugar plants. We also own three shutdown sugar refineries, one of which is located in St. Louis, sir. Hopefully, one day we will be able to reopen it.

In terms of my assignment, I want to cover two things. One is to answer the question of why treat refiners differently on drawback than anybody else is. The answer to that is, to our knowledge, the sugar refining industry is the only industry which has been forced to shrink by administrative implementation of a congressional mandate. We do not know of another commodity in which entire companies have been forced to close as the result of Government fiat.

Mr. Chairman, our company was the first company in Georgia to receive the U.S. Senate Award for Productivity in 1984. We are an unusual company in the sense that in our refineries we have no hourly employees; everybody is salaried. Everybody is a member of the ESOP; they are all stockholders.

We consider ourselves the most efficient in the land, whether it is sugar or anything else that you care to produce. But being the most efficient manufacturer is little comfort when next year we are forecasting a 7 percent decline in refined sugar sales at our cane sugar refineries.

The reason is that beet sugar production will be up over 10 percent this year, and this is in addition to a 15 percent increase last year. In fact, beet sugar production has gone up over 1 million tons in the last 5 years, from approximately 2.7 million tons to approximately an estimated USDA amount of 3.7 million tons this year.

Every time the beet sugar farmer grows the equivalent of another hundredweight of raw sugar, the administration must assure that it be sold or else violate the no-cost, no-accumulation mandate of the 1985 farm bill.

Therefore, this increase of production must come directly out of the refiners' hide. I might add that this is a direct result of the no-cost provision of the farm bill which was never debated by either House and was slipped into the bill in conference language.

Yet, the administration refuses to consider alternative administrative actions which would ease or ameliorate the impact of this policy. We have a long litany of instances whereby U.S. cane sugar refiners have gone to the administration's representatives at the Department of Agriculture, Commerce, Treasury, USTR, and State, and have asked for programs which would keep the cane sugar re-

fining industry competitive with other segments of the sweetener industry.

I will not go into the reexport program which was delayed 14 months, since that has been amply debated. But I will point out that there was an additional 6 months' delay for export of products that contain sugar. In other words, the Coca-Cola Company could not export Coca-Cola syrup and get credit drawback for sugar that they had used previously that we had bought for them.

Second, the reduction of fees and duties eliminated future drawback. In March 1985, the administration reduced the amount of duties from $2.815 per hundredweight to 62.5 cents per hundredweight and gave GSP, or duty-free status to numerous sugar producing nations. In fact, I believe it is fair to say that there are only two major countries which export to our country that now have to pay duty. These acts eliminated replacement drawback for future years as the earlier high drawback duties expired.

We presented to the administration, and this went to all departments, a proposal which would allow us to import world raw sugars and make high fructose syrup from them to compete with the fructose industry. That is a separate market because it is a different kind of product, and the fructose industry has taken about all it can and so it would not have affected the sugar program. Unfortunately, this proposal was rejected in September 1985 and again in February 1986 by the President's Cabinet Council on Economic Policy.

On October 10, 1985, the International Trade Commission reported to the President on the impact of the imports of foreign sugar containing products which it found to be undermining the sugar program. Two years have elapsed and the administration has failed to take any action. The refiners have also urged the administration to restrict operations in foreign trade zones where sugar containing products are manufactured. Not only have they refused these entreaties, but have recently approved two new licenses for the manufacture of sugar containing products in foreign trade zones in the Midwest. It is particularly galling that we are not even allowed to sell world sugar to these manufacturers and FTZ's which they import from the EC and other places.

In September 1985, U.S. raw sugar cane producers defaulted upon over 380,000 short tons of raw cane sugar. In December 1985, the CCC announced the proposed sale of 122,000 short tons of this raw sugar specifically for use in the manufacture of ethanol. The cane refiners, prior to this sale, approached the Agriculture Department regarding the purchase of this sugar for export in refined form to foreign markets. The Agriculture Department refused to consider the sale of this raw sugar to the cane refiners and sold this sugar to the Shepherd Oil Company of Louisiana for less than world sugar prices, or approximately one-half the price U.S. refiners were willing to pay.

In August 1986, the Agriculture Department engaged in secret negotiations with the Government of China for the purchase and sale of the remaining quantity of this forfeited sugar at prices well below the world market price. The refiners once again offered to purchase this sugar for export in refined form at world prices, which were then approximately 6.5 cents per pound. Instead, the

Government sold it to China for the equivalent of 4.5 cents per pound. Then the refiners offered to engage in a freight arbitrage which would have saved the Government $10 million, and once again the proposal was turned down.

Finally, in January 1987, the refiners requested that the Department of Agriculture include refined sugar as an eligible item for export under the Export Enhancement Program. This proposal, too, was summarily dismissed by the Department of Agriculture.

Thus, it can be readily seen that the attempts on the part of the cane sugar refining industry to retain some semblance of its market through administrative relief have been to no avail. Thus, we have no alternative but to turn to Congress for assistance.

Now, let us get into the problem that Customs seems to have, which I think when we finish you will understand that this problem is nonexistent, and that is the verification of the drawback in the years in which they claim that they have no supporting papers.

I would ask Mr. Joel Williams, who is our vice president of Corporate Affairs, to show you the kind of documents that we have available and the fact that when we send these documents to Customs, they put their numbers on them sequentially and it is therefore child's play to reconstruct any piece of paper they have.

In fact, I might add that it is very implausible that Customs has never misfiled a document in the past, or hordes of documents, and the truth is that they do, and the truth is that they have a reconstruction procedure and the truth is that they do it all the time.

Joel, would you take over, please?

STATEMENT OF JOEL C. WILLIAMS, JR., VICE PRESIDENT OF CORPORATE AFFAIRS, ATTORNEY, SAVANNAH FOODS & INDUSTRIES, INC., SAVANNAH, GA

Mr. WILLIAMS. Let me say my position is vice president of corporate affairs. I am an attorney for the company. One of the things that we wanted to point out to the committee is that we wanted to bring these examples of documents to the committee in order to show from an accountant's point of view, and from an attorney's point of view, what they would seek in order to justify an audit and to substantiate our claims for any drawbacks which we might make in the event this legislation passed.

Now, looking at it from an accountant's point of view, you have to look at it from a cash-in, cash-out basis, and there are a number of documents which go to establish this. Now, first of all, there are those documents which the refiners file with Customs. Those documents have significant numbers which are Customs numbers that are assigned to the refiners.

There are certain documents which Customs then acknowledges these particular filings and which they, in turn, send back to the refiners with attached numbers which coincide.

In addition, there are supporting documents which are not filed with Customs, but which are kept in the refiner's file which, in effect, support those filings. Finally, there are ledgers and there are various journals which are kept in the refiner's files which basically provide an accountant or an attorney, if you will, investigating the claim entry into this massive pile of documents.

We want to go over quickly for you and for the committee these types of documents so that you can understand how all of this ties together and makes a complete, nice package, if you will, which is complete and which will provide us with a method of verifying for Customs, in the event they do not have these documents, a method of verifying a claim submitted to them.

Now, first of all, let me put up for the committee a document that you do have in the written submission. This document is included. This is entitled exhibit D. This is a significant ledger which is similar in each refiner's instance, but this is a document which contains basically all of the entries and, in addition, then the debits against this entry on sugar and the amounts that came in and the amounts that went out.

Let me go first to those documents that show entries. The first is a most significant document showing entry. Once an entry is made into the United States by a refiner, the refiner must file with Customs the so-called Consumption Entry form. This form is filed with each importation [exhibit A].

Now, the importations come in at various times, but the refiner has a ledger. This is called the offshore receipts ledger. Let me say this is Savannah Foods' type of bookkeeping. There are similar types of bookkeeping with each refiner. They may not be exactly the same. They may not name their books and their ledgers the same, but we are taking this as an example.

This is our offshore receipts ledger [exhibit K], so that you can see in chronological order the importation of sugar. We chose for our example to this committee an importation that came in in September 1978, going back to a year in which Customs said that, gee, we do not have the documents.

In this case, it was the SS *Asia Morality*. This was an instance where there was an importation into the United States by our company of two different segments of cargoes, this making up the entire cargo.

As you can see, this Consumption Entry [exhibit A] filed with Customs has Customs' entry number here on it. In addition, this contains all the information concerning the amount of sugar, the amount of tariff that was due, as well as the import fee in place at that time.

In addition, what we have here is the total amount of poundage and a total amount of value, on all these poundages, as well as the total amount of duties due. Now, this is a so-called pro forma entry in that these two documents attached to the Consumption Entry called the Pro Forma Invoice are documents which are attached to the Consumption Entry. This is what is understood to be the total poundage.

These three documents going to Customs, then, are in place at first filing. Then, in turn, what we receive back from Customs is a response from them that is called the Notice of Action [exhibit B]. This is the document which Customs then formally—after the weigher tickets and the laboratory analysis of the amount of actual percentage of sugar, called polarity, is forwarded to Customs, who calculates whether or not this original Pro Forma Invoice is correct. Was the poundage that is stated in the Consumption Entry

over or under the actual amount that the final official weigher's report indicates?

In this case, it was under, and therefore we, in turn, owed them additional duties on which we made a payment. But this is a document which is Customs 'own document which they send back to us, and this then is kept and filed with the original Consumption Entry.

Now, this document here [exhibit D], which we say is important, because this is basically the document that shows the original amount that came in under the SS *Asia Morality*—then, in turn, as exports are made on which duty drawback is claimed, this balance here is then reduced in each instance.

These numbers here are, in fact, Customs' numbers. These numbers, 81143826–9 [exhibit D] and these other numbers, are basically numbers which Customs assign to refiners, and they are consecutive numbers which the refiners then use in each duty drawback claim that is made.

So, therefore, not only do we have a correlation here between the entry, but we also have a correlation on this ledger of basic demands against that entry for refunds. The document which then is used with Customs to show those reduction amounts and reduction balance is this document here [exhibit E]. This, again, is an official Customs form which is used by refiners.

You will note in this instance this was for an exportation made. This was made on May 21, 1981, and up at the top here is Customs' consecutive numbering which is assigned for purposes of claiming drawback.

This number here corresponds to this entry [exhibit D], this last entry here, which in this case was the last claim for drawback against this particular cargo, and reduced the balance that could be claimed against it on this total amount of $5.59 a hundredweight down to zero.

This document here [exhibit E] is significant in several respects because not only does it contain information concerning the actual claim, it also shows against what cargo we are claiming this drawback, and that information is contained in the middle here in which SS *Asia Morality* is indicated, the importation date and, in turn, the amount that we are claiming against.

Attached to this document also is a request for accelerated payment [exhibit E]. Finally, as part of the documents that are submitted to Customs we also include—and I am only going to show the committee two, although we included in our written testimony the other documents as well.

We include the Bill of Lading showing the exportation, as well as a Customs form which the freight forwarder uses [exhibit G], and basically that forms shows the vessel in which it was exported and the amount that was exported.

The significant thing is that Customs says they do not have records. When we submit these records, in addition to this claim for drawback, we also have to keep them, because of the ability under the drawback law to substitute sugar, the amount of sugar coming in on the SS *Asia Morality* was not the exact sugar that was used to export in refined form, but we basically have the right of substitution.

In this case, we have to keep in consecutive order, in chronological order, something known as the refiner's abstract [exhibit F]. This abstract is kept by each refinery showing the amount of sugar that goes through the refinery. In this case, this was from April 27 through May 24, showing what sugars were refined that were used in that exportation on May 21, 1981.

This document, although it is kept by the refiners, is also sent to Customs in New York. Customs in New York adds this number at the top. This number at the top, 12916 [exhibit F], is a number which they use and which they, in turn, send a copy of this to the district office in Miami, and the district office in Miami holds it for purposes of liquidation when we, in turn, file this subsequent drawback claim.

All of these documents, I would point out, have not only the Customs consecutive numbering, but also our own internal control numbering. The significance of that is that we also have a ledger in chronological order which shows these control numbers and the amount of sugar that we have claimed [exhibit J].

This is a consecutive journal entry which is made whenever we make these claims, so that numbers 300 and 295 are located here going out of Glasgow and, in turn, we also have the corresponding Customs number which is in this ledger or journal as well.

Thus, in the event an audit was made on a claim such as this, an auditor could come in and Customs could question it and say, in effect, show me your ledgers on how you have kept these entries both from the standpoint of importation and payment of duties and then, in turn, the claims for drawback and the payments made to your company.

The final thing that is important is that these are the official documents we keep. In addition to those documents, of course, we keep the bill of lading from the original importation [exhibit C]. We also keep for our files the Customs checks.

For instance, on this particular drawback entry, when the Customs check came back [exhibit H], less 1 percent, by the way, for handling, I assume—anyway, under the statute we get 99 percent of this claim amount back, and that, in turn, comes back to our accounting department, who takes the check, cashes it, and sends it to our raw sugar accounting department of the check, which is also found with the documents that are a part of this ledger which, as I indicated, is very important.

One of the things, as you can see here, is that this ledger [exhibit J] and this document [exhibit E] together correspond. We have the numbers, the consecutive numbering system, the consecutive numbering internal numbering system, which also, from the standpoint of these documents, are also kept in consecutive order in the file, so that in any one case they are not simply scattered out through a number of files, but are kept in consecutive order.

The final thing that I would point out is that from the standpoint of the Customs statement, they basically are impeaching their own documents because we have in our files acknowledgements which we feel substantiate our own claims, and that is our claim that we have complete documents, complete records to make out a case for a claim of drawback.

Let me hasten to respond to two things; first of all, the statement by the Customs official that a separate validation by their own records is the deterrent to fraud. Let me say that simply having their own records to verify it is not the real deterrent.

First of all, from our standpoint of appearing before this committee, when we make the statement, that to our knowledge and belief we have correct records, we know that the penalty for not saying the truth is perjury here.

Moreover, the penalties for fraudulently filing for a Customs refund, of course, are jail and fines, and we would certainly turn a profitable business into a nonprofitable business rather quickly.

Finally, we have the burden of proof. The law and the Customs regulations provide us with a burden of proof to prove our claim. If there is some question on the part of Customs as to the validity of that claim, then they have the right and the opportunity at any time to come in and look at our documents, our books and records, which we have given you an example of here.

Moreover, we find it almost ludicrous—and Mr. Sprague alluded to that fact—it is almost ludicrous to think that— not only is sugar imported, but other items as well, steel and other items, on which drawback is available.

We cannot imagine that during the period of time which the drawback laws have been in effect that there has not been a mislaid or a misfiled document. In those instances, Customs has a doctrine which they call the doctrine of reconstruction of records, in which they rely on the importer and the claimant of drawback to provide them with those documents and substantiating documents which would support their claim. In those instances, they have accepted the reconstruction of those records using the importer's own records.

Finally and last in this situation, I think that the chairman should understand a little bit more about this issue of the availability of these documents. First of all, last year we approached Customs and asked Customs about their procedure for holding the documents.

We understand that they hold the documents 5 years in their own files and then send them to the GSA for 3 more years. The GSA warehouse then holds them and then destroys them after a total of 8 years.

During this period of time in which we met with Customs, because we anticipated that there might be this allegation that, gee, our records are being destroyed according to a record retention schedule, we asked the Customs officers at that time to refrain from continuing to destroy these records in light of the fact that legislation was pending, and it might be passed, which would materially affect the ability of Customs to, in turn, validate these records.

In July of last year, in 1986, we met with Mr. Norman King, who was one of the accompanying witnesses here to Mr. Rosettie. We also met with Assistant Secretary Frank Keating of Treasury and Assistant Secretary Dennis O'Connell.

Mr. Roger Chesley, who is attorney for Amstar, and I, in these meetings in August of last year urged Customs to put a freeze on any document destruction, particularly on sugar, because there was

the potential—this would then have eliminated—if you figure 8 years, that would have meant that they would have had documents through August 1978.

But they refrained from putting a freeze on this document destruction probably because they do not know from the GSA warehouses—I am not sure what their ability is to retrieve these documents. We do not know for sure and will not aver to any indication on that.

But the final thing is, at that time, we showed Customs that we did some independent testing of our own from the standpoint of importations made in the Miami district Customs office.

For instance, on one importation made in 1978, we determined from the Miami district office that they had the records to show the balance due on that importation. In addition, our subsidiary, Colonial Sugar, which operated and did liquidations out of New Orleans, we asked them to also determine this.

In fact, Colonial had just undergone a substantial settlement concerning drawback, and this reached back into the period of 1977 forward and Customs through its own records was able to substantiate the claims for this subsidiary.

So what we are saying is that basically there are records not only in Customs' hands, but there are complete records in the refiners' hands.

I would ask the chairman—we did not at the time we submitted this in written form have two of these journals. We have marked them exhibits J and K and we will give them to the reporter, as well as a copy of my remarks, for the record.

Senator MELCHER. Yes. Your remarks and the additional material will be made part of the record at this point.

[The prepared statement of Mr. Sprague and the explanation of documents by Mr. Williams, with attachments, follow:]

Statement by W. W. Sprague, Jr., President
Savannah Foods & Industries, Inc., Savannah, Georgia
before the
Senate Agriculture Subcommittee on
Agricultural Production and Stabilization of Prices

Mr. Chairman and distinguished members of this panel:

I thank you for the opportunity to appear before this subcommittee to clear up questions which you may have with regard to the ability of our company and fellow cane sugar refiners to substantiate their claims for drawback pursuant to Section 897 of the Omnibus Trade Bill, S. 1420. My testimony before the committee this morning will be responding to three issues which you have raised in your letter requesting my appearance: First, I will attempt to provide you with a background and the rationale for this legislation. Secondly, I will explain the methods of record keeping which we believe will adequately satisfy your expressed personal concern about verification of our claims. Thirdly, I will seek to clarify the question which has been raised concerning the amount of refunds that may be available to our company.

First, before responding to your question regarding the rationale for this legislation, I must observe that it received considerable attention in the Senate Finance Committee and subsequently was the subject of extensive debate on the Senate floor. Turning now to your question, you have inquired specifically why our industry should be treated differently than any other industry that engages in exports and claims for drawback.

The primary answer is that the cane sugar refining industry is the only industry, to our knowledge, which has been forced to shrink by administrative implementation of a Congressional mandate. We do not know of another commodity in which entire companies have been forced to close as the result of government fiat.

Mr. Chairman, our company was the first company in Georgia to receive the U. S. Senate Award for Productivity in 1984. But being the most efficient manufacturer is little comfort when next year we are forecasting a 7% decline in refined sugar sales at our cane sugar refineries. The reason is that beet sugar production will be up over 10% this year. Every time the beet farmer grows the equivalent of another hundredweight of raw sugar, the Administration must assure that it be sold or else violate the "no cost-no accumulation" mandate of the 1985 Farm Bill. Therefore, this increase of production must come directly out of the refiner's hide. In the last five years beet sugar production has increased by more than 1,000,000 tons. Beet and cane sugar now have less than a 50% share of the sweetener market because of the inroads of high fructose corn syrup, most of which also occurred in the last five years. This is the first time that Congress has voted relief for the cane sugar refining industry. This legislation allows us to compete with the EEC for the export market with monies that were paid into the Treasury by us in the form of fees and duties that by law were held in trust, so to speak, for refund to us upon meeting the condition that we reexport the refined sugar.

Let me say further that the extension of the drawback program is not a subsidy but an effort to continue existing sugar exports which have maintained the financial stability of the rather meager

remains of the cane sugar refining industry. Since the enactment of the sugar support legislation in the Farm Bill of 1981, eight sugar refineries have closed and six companies have gone out of business. The industry has lost more than one-third of its capacity as a result of competition from high fructose corn sweetener, which, as pointed out above, has gained a 50% share of the sweetener market due to the inequities in raw material costs created by the sugar support program and from expansion of beet sugar. Sugar exports have been the only way that refiners have been able to use some of their excess capacity that has been displaced during this period, averaging around 400,000 tons annually in recent years. However, if drawback provisions contained in the Omnibus Trade Bill are not adopted, sugar exports by cane refiners will drop to nothing by the end of the year, thereby adversely affecting our balance of trade and potentially causing financial ruin to some of the remaining cane sugar refining companies. Mr. Chairman, this legislation allows us to compete abroad against the well documented marketing practices of the EEC. All we ask is to give us this chance to compete!

The cane sugar refining industry is one of the most regulated industries in the United States. During this decade there has been a substantial move toward deregulation of everything from airlines to telephones, but on the contrary, the sugar refining industry has been buffeted by increased government regulation, increased restrictions on available raw supplies, and a constant refusal by the present Administration to assist the refiners to stay in business. We have a long litany of instances whereby U. S. cane refiners have gone to the Administration's representatives at the Departments of Agriculture, Commerce, Treasury, Special Trade Representative, and State and have asked for programs which would keep the cane sugar refining industry competitive with other segments of the sweetener industry.

A primary example of this negative attitude toward cane sugar refiners was evidenced by the length of time in which the Agriculture Department refused to promulgate regulations which would allow U. S. refiners to continue their exports of refined sugar after the institution of foreign quotas. In May 1982 the Administration imposed import quotas on all foreign sugars, but failed to provide authorization and regulations to refiners to engage in the reexport of refined sugar. These regulations were not published until June 28, 1983, thereby causing most refiners a delay of over fourteen months in the reexporting of any refined sugar whatsoever. Moreover, regulations allowing the reexportation of sugar-containing products were not promulgated until January 24, 1984, thereby preventing the refiners from selling refined sugar to industrial users for reexport in sugar-containing products. Thus, for nearly two years cane sugar refiners were either prohibited from claiming drawback or severely hampered by its unavailability to their customers.

Subsequently, in March 1985, the Administration removed import fees from raw sugar, reducing the amount of duties from $2.815 per hundredweight to 62 1/2¢ per hundredweight, and gave GSP status (duty-free) to numerous sugar producing nations. These acts eliminated replacement drawback for future years as earlier high drawback duties expired.

In December 1984, the U. S. refiners requested that the Administration permit them to import nonquota sugar to be made into

high fructose syrup, which would compete with the high fructose corn sweetener industry. Because corn sweetener by then had reached market saturation levels, such sales would not affect the beet and domestic cane sugar market. The rationale of this program was the same as the present legislation: to allow the refiners to utilize excess capacity to compete with the corn sweeteners. This proposal was rejected in September 1985 and again in February 1986 by the President's Cabinet Council on Economic Policy.

On October 10, 1985, the International Trade Commission reported to the President on the impact of the imports of foreign sugar-containing products which it found to be undermining the sugar program. Two years have elapsed and the Administration has failed to take any actions. The refiners have also urged the Administration to restrict operations in foreign trade zones where sugar-containing products are manufactured. Not only have they refused these entreaties, but have recently approved two new licenses for the manufacture of sugar-containing products in foreign trade zones in the midwest.

In September 1985, the U. S. raw cane sugar producers defaulted upon over 380,000 short tons of raw cane sugar. In December 1985, the Commodity Credit Corporation announced the proposed sale of 122,000 short tons of this raw sugar specifically for use in the manufacture of ethanol. The cane refiners, prior to this sale, approached the Agriculture Department regarding the purchase of this sugar for export in refined form to foreign markets. The precedent for this request had already been established by the Agriculture Department in exporting surplus feed grains to underdeveloped countries under the Food for Peace program and other aid programs. The Agriculture Department refused to consider the sale of this raw sugar to the cane refiners and sold this sugar to the Shepherd Oil Company of Louisiana for less than world sugar prices, or approximately half the price U. S. refiners were willing to pay.

Subsequently, in August 1986, the Agriculture Department engaged in secret negotiations with the government of China for the purchase and sale of the remaining quantity of this forfeited sugar at prices well below the world market price. The refiners once again offered to purchase this raw sugar for export in refined form at world prices which were then approximately 6.5¢ per lb. Instead the government sold it to China for the equivalent of 4.5¢ per lb. Then the refiners offered to engage in a freight arbitrage which would have saved the government $10,000,000, and once again the proposal was turned down.

Finally, in January 1987 the refiners requested that the Department of Agriculture include refined sugar as an eligible item for export under the export enhancement program. This proposal, too, was summarily dismissed by the Department of Agriculture.

It can be readily seen that the attempts on the part of the cane sugar refining industry to retain some semblance of its market through administrative relief have been to no avail. Thus, the refining industry had no alternative but to turn to Congress for assistance. It should be hastily pointed out at this juncture that the requested legislative relief is not an unlimited free ride or blank check. It is most important to note that there is a

sunset clause on this legislation which corresponds to the termination of the domestic growers' sugar support program. We feel that the extension of the drawback program to expire with the beet and cane subsidy programs are equitable and give us our chance to compete.

Second, let me deal with the question of verification because this is, as I understand, your primary reason for holding these hearings. At the outset I should state that you and the members of your committee should understand that the U. S. cane refiners have been under close government regulation and supervision for some fifty years. Since the early 1930's, sugar production and foreign importation have been highly controlled. Also, during this period, U. S. cane sugar refiners were required to pay Customs duties and fees on all imported raw or refined sugars, and our company and its major industrial customers have engaged frequently in the export of refined sugar and sugar-containing products to the world.

We have long-term experience in the keeping of meticulous records regarding importation of raw sugar, the manufacturing thereof, and its exportation. These are business records kept in the ordinary course of business which have been retained by our company for not only the substantiation of drawback but also for utilization in other financial functions, including the payment of state and federal income taxes; the reporting of various financial information to the SEC and our stockholders; and the payment of excise taxes on refined sugar until the expiration of the Sugar Act in 1974. Therefore, we feel these records kept in the ordinary course of business provide us with a full and complete documentation trail with which we can substantiate our claims for drawback under the provisions of Section 897 of the Omnibus Trade Bill.

In our earlier written response to your request for information, we enclosed an example of this documentation. We chose as our example an importation on the vessel, the ASIA MORALITY, dated September 14, 1978, in which we received a total of 36,807,680 lbs. of Argentine raw sugar on which were paid $2.8652 per hundredweight in duties and $2.70 per hundredweight in fees. Enclosed are the Customs' consumption entry form and pro forma invoice which we initially filed with Customs evidencing this importation. (See Exhibit A). There are available underlying documents proving this entry. We have enclosed the Customs' acknowledgment which is designated as notice of liquidation (Exhibit B), and the vessel's bills of lading (Exhibit C). Secondly, we have attached a copy of our Raw Sugar Department's raw sugar journal showing the vessel's name and entry number; the total poundage available upon which drawback could be claimed; and corresponding drawback claim numbers for cargoes which were exported and against which refund claims were made. (See Exhibit D). Thirdly, we have enclosed an example of a drawback claim and certificate of manufacture for exportations on May 4, 1981, and May 21, 1981, of a total of 16,724,536 refined pounds which were designated against the sugar imported by the ASIA MORALITY on September 14, 1978. (See Exhibit E). As you will note, the number in the upper right hand corner of the drawback entry and the total poundage (See Exhibit E) corresponds to the accounting entry in the raw sugar journal (See Exhibit D) that reduces the balance of available drawback from the ASIA MORALITY.

It should be pointed out that the exact sugar from the ASIA MORALITY was not utilized in manufacturing the exported refined sugar. The Customs' laws allow substitution of a like kind and quality of raw sugar for purposes of manufacturing the exported item as long as the manufacture of refined sugar occurred within three years from the date of importation. Therefore, for every drawback submission a manufacturer's abstract does exist and is retained in our files. In this particular exportation, the manufacturer's abstract for April 27 through May 19, 1981, was attached as proof that the exported cargo had come within the three year limit which expired on September 14, 1981. (See Exhibit F).

As backup for the drawback claim we are required by Customs to retain the freight forwarders' copies of the "Notice of Exportation of Articles with Benefit of Drawback" and the ocean bill of lading. These amounts and dates correspond to the information contained in the drawback claim. (See Exhibit G).

We have included a copy of the Treasury Department's check which remitted the duties claimed under this drawback claim less the one percent statutory holdback. (See Exhibit H).

Again, we believe these records kept in the ordinary course of business are the best available source for substantiating a drawback refund in the event Customs fails to have independent means of verifying some of these claims, because they are complete and have been retained not only for Customs' audits, but also for any tax audits. Moreover, our company would be willing to share in the costs of an audit of these documents in the event Congress, in its wisdom, so required.

The third area of your inquiry regards the potential budgetary outlay of this legislation. We believe that two important points should be borne in mind. First, the budgetary cost estimates by the Administration and by certain opponents of this legislation are inaccurate. As is shown by the testimony of Nicholas Kominus, the President of the U. S. Cane Sugar Refiners' Association, the total available drawback for all existing refiners for all available years is only $402,142,000. However, we would point out that much of these drawback duties cannot be used because much of the available drawback is so low that when it is credited to the cost of manufacturing and reexporting it is not sufficient to equalize the difference between the U. S. refiners' reexport cost and the EEC 's export prices to the world market. The EEC has a very unorthodox method of selling refined sugar to world markets. There is no relation between its refined sugar pricing and the world raw sugar prices. For example, we enclose a chart showing the premium (difference) between white (refined) sugar and raw sugar in the world market (Exhibit I). As can be noted, refined prices many times have fallen near or equal to raw prices. Hence, we feel that only on those imports on which more than $4.00 per hundredweight in fees and duties were paid can a refiner economically use drawback to compete against the EEC for foreign sales. It is our understanding that a calculation by an independent accounting firm on behalf of the U. S. Cane Refiners Association indicates that of the total, the most that they could possibly use under the best of circumstances is only $304,863,000 out of the total available $402,142,000.

The second economic point to be borne in mind about this $304,863,000 is that this legislation does not give a refiner a blank check to walk into Treasury and demand a refund after it is

signed into law. We, the U. S. refiners, must go into the world sugar market and compete for refined sales against the EEC which has a competitive geographical advantage in that the majority of the world's refined sugar customers are closer to EEC producers. Moreover, U. S. refiners will not engage in export sales to the detriment of their U. S. domestic market. Hence, export sales will be made only during those periods of time when excess refining capacity is available and only for those amounts which refiners consider as excess capacity. Therefore, for the above reasons, it is our opinion that even the $304,863,000 is a maximum outside figure which cannot be reached within the next 3 1/2 years when this extended drawback program expires.

Thank you for the opportunity to appear before your committee.

EXPLANATION OF DOCUMENTS
BY JOEL C. WILLIAMS, JR., VICE PRESIDENT - CORPORATE AFFAIRS
SAVANNAH FOODS & INDUSTRIES, INC., SAVANNAH, GEORGIA
BEFORE THE
SENATE AGRICULTURE SUBCOMMITTEE ON
AGRICULTURAL PRODUCTION AND STABILIZATION OF PRICES

NOVEMBER 16, 1987

WE HAVE ATTEMPTED TO APPROACH THE ISSUE OF VERIFICATION FROM AN ACCOUNTANT'S PERSPECTIVE - ESTABLISH A PROTOCOL TO FIND THE CASH OUT AND THE CASH IN. IN THIS CASE, THE DOCUMENTS FALL INTO THREE CATEGORIES:

(1) DOCUMENTS WHICH WERE FILED WITH CUSTOMS SHOWING AN IMPORTATION OR EXPORTATION;

(2) UNDERLYING DOCUMENTS AND RECORDS WHICH SUPPORTED THESE FINDINGS BUT WERE RETAINED IN OUR FILES;

(3) THOSE LEDGERS WHICH CONTAIN ENTRIES IN CONSECUTIVE AND CHRONOLOGICAL ORDER THAT PROVIDE AN ACCOUNTANT AN ENTRY INTO THE OTHER LEDGERS AND SUPPORTING DOCUMENTS.

WE CHOSE AS OUR EXAMPLE AN IMPORTATION ON THE VESSEL, THE ASIA MORALITY, DATED SEPTEMBER 14, 1978, IN WHICH WE RECEIVED A TOTAL OF 36,807,680 LBS. OF ARGENTINE RAW SUGAR ON WHICH WERE PAID $2.8652 PER HUNDREDWEIGHT IN DUTIES AND $2.70 PER HUNDREDWEIGHT IN FEES. FIRST, WE HAVE THE CUSTOMS' CONSUMPTION ENTRY FORM 7501 AND PRO FORMA INVOICE WHICH WE INITIALLY FILED WITH CUSTOMS EVIDENCING THIS IMPORTATION (EXHIBIT A). WE HAVE ENCLOSED THE CUSTOMS' ACKNOWLEDGMENT WHICH IS DESIGNATED AS "NOTICE OF LIQUIDATION" (EXHIBIT B).

THE NOTICE OF LIQUIDATION SHOWS THE CORRECTED AMOUNT OF DUTY WHICH IS OWED BY THE IMPORTER.

THERE ARE AVAILABLE UNDERLYING DOCUMENTS PROVING THIS ENTRY. WE HAVE THE VESSEL'S BILLS OF LADING (EXHIBIT C). IN ADDITION, WE HAVE ONE EXCERPT FROM THE OFFSHORE RECEIPT LEDGER WHICH ENTERS IN CONSECUTIVE ORDER THE VESSELS AND THE TOTAL WEIGHT OF SUGAR.

WE NEXT HAVE A COPY OF OUR RAW SUGAR DEPARTMENT'S RAW SUGAR VESSEL JOURNAL SHOWING THE VESSEL'S NAME AND ENTRY NUMBER; THE TOTAL POUNDAGE AVAILABLE UPON WHICH DRAWBACK COULD BE CLAIMED; AND CORRESPONDING DEBITS TO THE BALANCE DUE WITH DRAWBACK CLAIM NUMBERS FOR CARGOES WHICH WERE EXPORTED AND AGAINST WHICH REFUND CLAIMS WERE MADE (EXHIBIT D).

ON THE EXPORT SIDE, WE HAVE AN EXAMPLE OF A DRAWBACK CLAIM WHICH WAS FILED WITH CUSTOMS FOR EXPORTATIONS ON MAY 4, 1981, AND MAY 21, 1981, OF A TOTAL OF 16,724,536 REFINED POUNDS WHICH WERE DESIGNATED AGAINST THE SUGAR IMPORTED BY THE ASIA MORALITY ON SEPTEMBER 14, 1978 (EXHIBIT E). AS YOU WILL NOTE, THE NUMBER IN THE UPPER RIGHT HAND CORNER OF THE DRAWBACK ENTRY AND THE TOTAL POUNDAGE (EXHIBIT E) CORRESPONDS TO THE ACCOUNTING ENTRY IN THE RAW SUGAR JOURNAL (EXHIBIT D) THAT REDUCES THE BALANCE OF AVAILABLE DRAWBACK FROM THE ASIA MORALITY.

MOREOVER, AS A CONTROL OR INDEX FOR THESE DRAWBACK CLAIMS, WE HAVE A DRAWBACK LEDGER WHICH CONTAINS CONSECUTIVE

ENTRIES OF DRAWBACK CLAIMS WITH CORRESPONDING INTERNAL ACCOUNTING CONTROL NUMBERS AS WELL AS THE CUSTOMS DRAWBACK NUMBERS. THIS LEDGER PROVIDES AN AUDITOR WITH AN ENTRY TO THE DRAWBACK CLAIMS.

IT SHOULD BE POINTED OUT THAT THE EXACT SUGAR FROM THE ASIA MORALITY WAS NOT UTILIZED IN MANUFACTURING THE EXPORTED REFINED SUGAR. THE CUSTOMS' LAWS ALLOW SUBSTITUTION OF A LIKE KIND AND QUALITY OF RAW SUGAR FOR PURPOSES OF MANUFACTURING THE EXPORTED ITEM AS LONG AS THE MANUFACTURE OF REFINED SUGAR OCCURRED WITHIN THREE YEARS FROM THE DATE OF IMPORTATION. THEREFORE, FOR EVERY DRAWBACK SUBMISSION A MANUFACTURER'S ABSTRACT DOES EXIST AND IS RETAINED IN OUR FILES. IN THIS PARTICULAR EXPORTATION, THE MANUFACTURER'S ABSTRACT FOR APRIL 27 THROUGH MAY 19, 1981, WAS RETAINED AS PROOF THAT THE EXPORTED CARGO HAD COME WITHIN THE THREE YEAR LIMIT WHICH EXPIRED ON SEPTEMBER 14, 1981 (EXHIBIT F).

AS BACKUP FOR THE DRAWBACK CLAIM WE ARE REQUIRED BY CUSTOMS TO RETAIN THE FREIGHT FORWARDERS' COPIES OF THE "NOTICE OF EXPORTATION OF ARTICLES WITH BENEFIT OF DRAWBACK" AND THE OCEAN BILL OF LADING. THESE AMOUNTS AND DATES CORRESPOND TO THE INFORMATION CONTAINED IN THE DRAWBACK CLAIM (EXHIBIT G). THESE DOCUMENTS ARE FILED WITH THE DRAWBACK CLAIM AND ARE ALSO KEPT WITH OUR FILE COPIES.

FINALLY, WE HAVE INCLUDED A COPY OF THE TREASURY DEPARTMENT'S CHECK WHICH REMITTED THE DUTIES CLAIMED UNDER

THIS DRAWBACK CLAIM LESS THE ONE PERCENT STATUTORY HOLDBACK (EXHIBIT H). THESE CHECKS ARE RECEIVED BY OUR DEPARTMENT AND COPIES ARE FORWARDED TO OUR RAW SUGAR DRAWBACK CLAIMS DEPARTMENT WHICH RETAINS THE COPY AND CONFIRMS THE JOURNAL ENTRIES.

Exhibit A

CONSUMPTION ENTRY

U.S. CUSTOMS SERVICE

RECORD COPY ☐
CASHIER'S COPY ☐

This Space For Census Use Only			This Space For Customs Use Only
BLOCK AND FILE NO.	M.O.T.	Form approved. O.M.B. No. 48-R0217.	ENTRY NO. AND DATE 835475 SEP 14 78
	MANIFEST NO.		
FOREIGN PORT OF LADING	U.S. PORT OF UNLADING	Dist. and Port Code 1703	Port of Entry Name: Savannah, Georgia — Term Bond No. 8

Importer of Record (Name and Address): SAVANNAH FOODS & INDUSTRIES, INC., SAVANNAH, GEORGIA 31402 — SAVANN 41703

For Account of (Name and Address): SAVANNAH FOODS & INDUSTRIES, INC., SAVANNAH, GEORGIA 31402

Importing Vessel (Name) or Carrier	B/L or AWB No.	Port of Lading	I.T. No. and Date
S/S ASIA MORALITY (Liberian Flag)	#1 and #1	San Lorenzo and Buenos Aires, Argentina	
Country of Exportation: ARGENTINA	Date of Exportation: Aug. 29,1978	Type and Date of Invoice: Proformas 9/14/78	I.T. From (Port)
U.S. Port of Unlading: SAVANNAH, GEORGIA	Date of Importation: SEPT. 14, 1978	Location of Goods—G.O. No.: Port Wentworth, Ga.	I.T. Carrier (Delivering)

MARKS & NUMBERS OF PACKAGES; COUNTRY OF ORIGIN OF MERCHANDISE (1)	DESCRIPTION OF MERCHANDISE IN TERMS OF T.S.U.S.A. ANNO. NUMBER AND KIND OF PACKAGES (2)	GROSS WEIGHT IN POUNDS (2a)	NET QUANTITY IN T.S.U.S.A. ANNO. UNITS (2b)	ENTERED VALUE IN U.S. DOLLARS (3)	T.S.U.S. ANNO. REPORTING NO. (4)	TARIFF OR I.R.C. RATE (5)	DUTY AND I.R. TAX (6) Dollars	Cents
	SUGAR, SYRUP AND MOLASSES DERIVED FROM SUGAR CANE OR SUGAR BEETS ARGENTINE RAW SUGAR IN BULK MINIMUM POLARIZATION AT SHIPMENT 97.25°				NOT RELATED			
ARGENTINE RAW SUGAR IN BULK San Lorenzo, Argentina	11,200,000 LBS. ARGENTINE RAW SUGAR IN BULK		11,200,000 Lbs	$1,484,000.	155.2045	2.8652	320,902	40
	FEE SECTION 22 TARIFF				956.1500	2.70	302,400	00
				PEXT $1,484,000. CHARGES	46,592.			
ARGENTINE RAW SUGAR IN BULK Buenos Aires, Argentina	25,607,680 LBS. ARGENTINE RAW SUGAR IN BULK		25,607,680 LBS.	3,393,018.	155-2045	2.8652	733,711	25
	FEE SECTION 22 TARIFF				956.1500	2.70	691,407	36
				PEXT $3,393.018 CHARGES	106,528.			
	36,807,680 LBS. ARGENTINE RAW SUGAR IN BULK		36,807,680 LBS.	$4,877.018.	155-2045	2.8652	$1,054,613	65
C/O ARGENTINA					956.1500	2.70	993,807	36
							$ 2,048,421	01

MISSING DOCUMENTS: Special Customs Invoices

THIS SPACE FOR CUSTOMS USE ONLY

I declare that I am the ☐ nominal consignee and that the actual owner for customs purposes is as shown above, or ☐ consignee or agent of the consignee. I further declare that the merchandise ☐ was or ☐ was not obtained in pursuance of a purchase or agreement to purchase. I also include in my declaration all the statements in the declaration on the back of this entry.

September 14,1978 — DATE

SAVANNAH FOODS & INDUSTRIES, INC. — (Signature)

SAVANNAH, GA. — (Address)

☐ Principal ☐ Member of the firm ☐ Attorney-in-fact (Title) ☐ Authorized agent

CUSTOMS FORM 5-15-79 7501

5617E15 ₱ 999999.99 /

PART #1 P-R-O F-O-R-M-A I-N-V-O-I-C-E S/S ASIA MORALITY
CONTROL # 14

IMPORTER'S STATEMENT OF VALUE OR THE PRICE PAID IN THE FORM OF AN INVOICE

Not being in possession of a special or commercial seller's or shipper's invoice, I request that you accept the Port of San Lorenzo, Argentina Statement of Value or the Price Paid in the form of an Invoice submitted below:

Name of Shipper or Seller: FARR MAN & COMPANY, INC. Address: NEW YORK, N. Y.

Name of Consignee or Purchaser: SAVANNAH FOODS & INDUSTRIES, INC. Address: SAVANNAH, GEORGIA

The merchandise (has) (~~has not~~) been purchased or agreed to be purchased by me. The prices, or in the case of consigned goods, the values given below are true and correct to the best of my knowledge and belief, and are based upon (Check basis with an "X"):

(a) The price paid or agreed to be paid ( ) as per order dated _____
(b) Advises from exporter by letter ( ) by cable ( ) dated _____
(c) Comparative values of shipments previously received ( ) dated _____
(d) Knowledge of the market in the country of exportation ( ) _____
(e) Knowledge of the market in the United States (if U.S.Value (X) _____
(f) Advises of the Import Specialist (Sec. 14.4, C.R.) ( ) _____
(g) _____

List below all charges included in the Purchase Price and indicate whether dutiable - or not dutiable: $13.25 - DUTY PAID

A	B	C	D	E	F	G
Case Marks Numbers:	Manufacturer's Item No. Symbol or Brand:	Quantities and Full Description	Unit Purchase Price in:	Total Purchase Price	Unit Foreign Value in:	Total Foreign Value
		5,000 Long tons	currency:	currency:	_____:	_____:
BULK		11,200,000 Lbs. Argentine RAW SUGAR IN BULK	$13.25	$1,484,000.		

COUNTRY OF ORIGIN ARGENTINA

If any other Invoice is received, I will immediately file it with the District Director of Customs.

Date SEPT. 14, 1978

Signature of person making Invoice: _____
Title and Firm Name: Attorney-in-fact of SAVANNAH FOODS & INDUSTRIES, INC. SAVANNAH, GEORGIA

EXHIBIT A

PORT #2

P-A-O F-O-R-M-A I-N-V-O-I-C-E S/S ASIA MORALITY

CONTROL #14

IMPORTER'S STATEMENT OF VALUE OR THE PRICE PAID IN THE FORM OF AN INVOICE

Not being in possession of a special or commercial seller's or shipper's invoice, I request that you accept the Statement of Value or the Price Paid in the form of an Invoice submitted below:

Name of Shipper or Seller: PHILIPP BROTHERS SAVANNAH FOODS & Address: NEW YORK, N. Y.

Name of Consignee or Purchaser: INDUSTRIES, INC. Address: SAVANNAH, GEORGIA

The merchandise (has)(~~has not~~) been purchased or agreed to be purchased by me. The prices, or in the case of consigned goods, the values given below are true and correct to the best of my knowledge and belief, and are based upon (Check basis with an "X"):

(a) The price paid or agreed to be paid ( ) as per order dated
(b) Advices from exporter by letter ( ) by cable ( ) dated
(c) Comparative values of shipments previously received ( ) dated
(d) Knowledge of the market in the country of exportation ( )
(e) Knowledge of the market in the United States (if U.S.Value (X)
(f) Advices of the Import Specialist (Sec. 14.4, C.R.) ( )
(g)

List below all charges included in the Purchase Price and indicate whether dutiable - or not dutiable: $13.25 - DUTY PAID

A	B	C	D	E	F	G
Case Marks Numbers:	Manufacturer's Item No. Symbol or Brand:	Quantities and Full Description	Unit Purchase Price in:	Total Purchase Price	Unit Foreign Value in:	Total Foreign Value
		11,432 LONG TONS ARGENTINE RAW SUGAR IN BULK	currency: $13.25	currency: $3,393,018.	_____	_____

COUNTRY OF ORIGIN ARGENTINA

If any other Invoice is received, I will immediately file it with the District Director of Customs.

Date SEPT. 14, 1978

Signature of person making Invoice:
Title and Firm Name: ATTORNEY-IN-FACT OF SAVANNAH FOODS & INDUSTRIES, INC. SAVANNAH, GA.

EXHIBIT A

Exhibit B

NOTICE OF ACTION
This is NOT a Notice of Liquidation

1. DATE OF THIS NOTICE: 11/1/78

2. CARRIER	3. DATE OF IMPORTATION	4. DATE OF ENTRY	5. ENTRY NO.
S/S ASIA MORALITY	9/14/78	9/14/78	835475

6. MFR/SELLER/SHIPPER	7. COUNTRY	8. CUSTOMHOUSE BROKER AND FILE NO.
LEDESMA S.A. .I.	ARGENTINE	

9. DESCRIPTION OF MERCHANDISE: RAW SUGAR

10. TO:
SAVANNAH FOODS & INDUSTRIES
P. O. BOX 339
SAVANNAH, GA. 31402

11. FROM:
U. S. CUSTOMS SERVICE
1 EAST BAY ST.
SAVANNAH, GA. 31401

12. THE FOLLOWING ACTION, WHICH WILL RESULT IN AN INCREASE IN DUTIES, —

☐ IS PROPOSED. IF YOU DISAGREE WITH THIS PROPOSED ACTION, PLEASE FURNISH YOUR REASONS IN WRITING TO THIS OFFICE WITHIN 20 DAYS FROM THE DATE OF THIS NOTICE. AFTER 20 DAYS THE ENTRY WILL BE LIQUIDATED AS PROPOSED.

■ HAS BEEN TAKEN. THE ENTRY IS IN THE LIQUIDATION PROCESS AND IS NOT AVAILABLE FOR REVIEW IN THIS OFFICE.

TYPE OF ACTION

A. ☒ RATE ADVANCE
B. ☐ VALUE ADVANCE
C. ☒ EXCESS ■ WEIGHT ☐ QUANTITY
D. ☐ OTHER (See below)

13. EXPLANATION (Refer to Action letter designations above)

The average polarity for sugar entered on the above noted entry has been ascertained to be 97.8524 degrees. Copy of Lab. report attached. Landed weight 36,843,190 lbs greater than entered weight by 35,510 lbs.

28125.00
.1078148
270
5590648

$ 2.059.773.06
2048.42101 RL
$ 11 35205

14. CUSTOMS OFFICER (Print or Type)		15. TEAM DESIGNATION	16. TELEPHONE
W. G. AMOS	W. G. Amos		

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE
19CFR

ORIGINAL (White) - Importer

CUSTOMS FORM 29
(5-28-73)

Exhibit C

84-220 O - 88 - 6

155

BILL OF LADING

SHIPPED in apparent good order and condition by LEDESMA S.A.A.G.I. on board the ___ Steamship or Motorship s/s ASIA MORALITY now lying in the Port of BUENOS AIRES and bound for U.S.A.

with liberty to call at any port or ports in or out of or beyond the scheduled or customary route, in any rotation at any order, for any purpose whatsoever, including, but not limited to, receiving or discharging fuel, stores or cargo, or go on drydock and all such ports, places, calling and procedures shall be deemed included within the intended voyage.

795 MET METRIC TONS ARGENTINE CANE RAW SUGAR IN BULK

MARKS AND NUMBERS

as per margin, shippers weight (weight, quality, contents and value unknown) and to be transported subject to the terms of this Bill of Lading whether printed, stamped, written, typed or incorporated herein, to the port of UTICHINAS and there delivered unto TO ORDER or to his or their assigns, he or they paying freight on the goods on or before delivery, without any allowance for ~~ordinary damage~~ at the rate of ___ In accordance with Charter Party dated LONDON, 27th JUNE 1979

This Bill of Lading is subject to all the terms, conditions, exceptions, exemptions and limitations contained in said Charter Party, which terms, conditions, exceptions, exemptions and limitations shall be deemed incorporated herein and made a part hereof.

The ship shall have liberty to sail in or out of ports or elsewhere without pilots, whether or not compulsory or customary, to tow and assist vessels or craft in any situation, to save or attempt to save life or property, whether the property be that of the Carrier or others, including the liberty to deviate from her course to any extent for any of such purposes.

The Carrier shall not be liable for loss or damage occasioned by perils of the sea or other waters, by fire from any cause or howsoever occurring, by barratry of the Master or crew, by enemies, pirates or robbers; by arrest and restraint of Princes, Rulers or people, riots, strikes, or stoppage of labor; by explosions, bursting of boilers, breakage of shafts, or any latent defect in hull, machinery or appurtenances, or unseaworthiness of the steamer, whether existing at time of shipment, or of boilers, breakage of shafts, or any latent defect in hull, machinery or appurtenances, or unseaworthiness of the steamer, whether existing at time of shipment, or at the beginning of the voyage provided the Owners have exercised due diligence to make the steamer seaworthy; by heating, frost, decay, putrefaction, vermin, change of character, leakage, breakage, wastage, vermin, or any loss or damage arising from the insufficiency of packages; nor for risk of craft, hulk or transhipment; nor for any loss or damage caused by prohibitions of the voyage.

General Average shall be adjusted, stated and settled according to York-Antwerp Rules, 1974 at any port or place selected by the Carrier.

In the event of accident, danger, damage, or disaster before or after commencement of the voyage resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the Carrier is not responsible, by statute, contract or otherwise, the goods, shippers, consignees, or owners of the goods shall contribute with the Carrier in general average to the payment of any sacrifices, losses, or expenses of a general average nature that may be made or incurred, and shall pay salvage and special charges incurred in respect of the goods. If a salving ship is owned or operated by the Carrier, salvage shall be paid for as fully and in the same manner as if such salving ship or ships belonged to strangers.

If the ship comes into collision with another ship as a result of the negligence of the other vessel and any act, neglect or default of the Master, mariners, pilot or other servants of the Carrier in the navigation or in the management of the ship, the owners of the goods carried hereunder will indemnify the Carrier against all loss or liability to the other or non-carrying vessel or her owners insofar as such loss or liability represents loss of, or damage to, or any claim whatsoever, of the owners of said goods, paid or payable by the other or non-carrying vessel or her owners to the owners of said goods and set-off, recouped or recovered by the other or non-carrying vessel or her owners as part of their claim against the carrying ship or carrier. The foregoing provision shall also apply where the Owners, operators or those in charge of any vessel or vessels or objects other than, or in addition to, the colliding vessels or objects are at fault in respect of a collision, contact, stranding or other accident.

This Bill of Lading shall have effect subject to the provisions of the United States Carriage of Goods by Sea Act, approved April 16, 1936, which shall be deemed to be incorporated herein and nothing contained herein shall be deemed a surrender by the Carrier of any of its rights or immunities or an increase of any of its responsibilities or liabilities under said Act. If any term of this Bill of Lading is repugnant to said Act to any extent, such term shall be void to that extent, but no further. The provisions stated in said Act shall govern throughout the entire time the goods are in the custody of the Carrier.

The Carrier shall have a lien on all goods for all freight, primage, charges and all obligations payable by or chargeable to the goods, shipper or consignee.

If the ship is not owned or chartered by demise to the Company or Line by whom this Bill of Lading is issued (or may be the case notwithstanding anything that appears to the contrary) this Bill of Lading shall take effect only as a contract with the Owner or Demise Charterer as the case may be as principal made through the agency of the said Company or Line who act as agents only and shall be under no personal liability whatsoever in respect thereof.

In accepting this Bill of Lading, the shipper, owner and consignee of the goods and the holder of the Bill of Lading agree to be bound by all stipulations, exceptions and conditions, whether written or printed, as fully as if signed by such shipper, owner or consignee.

IN WITNESS WHEREOF the Master or Agent of said ship has affirmed to 3 (THREE) Bills of Lading, all of this tenor and date, one of which being accomplished, the others to stand void.

BY AUTHORITY OF THE MASTER

S. A. MARITIMA Y COMERCIAL
J. R. WILLIAMS (BUENOS AIRES)

Dated, BUENOS AIRES, [illegible]

CARGO, PROVISIONS AND
U.K SUGAR CHARTER PARTY
2) DATED AT LONDON,

FREIGHT PAYABLE AS
PER CHARTER PARTY

TO ORDER CITIBANK, N.A.

DELIVER TO THE ORDER OF
M. GOLODETZ & CO., INC.
WITHOUT RECOURSE
CITIBANK, N.A.

Deliver to the order of
M. GOLODETZ & CO., INC.
Authorized signature

PHILIPP BROTHERS
DIVISION OF
ENGELHARD MINERALS & CHEMICALS CORPORATION

Exhibit C

BILL OF LADING

1

SHIPPED in apparent good order and condition by LEDESMA S.A.A.I. on board

the ___ Steamship or Motorship m/s ARIA MORALITY now lying in the Port of SAN LORENZO and bound for U.S.A.

with liberty to call at any port or ports in or out of or beyond the scheduled or customary route, in any rotation or any order, for any purpose whatsoever, including, but not limited to, receiving or discharging fuel, stores or cargo, or go on drydock and all such ports, places, sailings and procedures shall be deemed included within the limited voyage.

5,726 NET METRIC TONS ARGENTINE CANE RAW SUGAR IN BULK

as per margin, shippers weight, weight, quality, contents and value unknown (if not otherwise expressed) and to be transported subject to the terms of this Bill of Lading whether printed, stamped, written, typed or incorporated herein, to the part of DUNKIRK and there delivered unto

TO ORDER

or to his or their assigns, he or they paying freight on the goods on or before delivery, without ~~[illegible]~~ at the rate of ___ in accordance with Charter Party dated LONDON, 25th JUNE 1976

ORIGINAL

This Bill of Lading is subject to all the terms, conditions, exceptions, exemptions and limitations contained in said Charter Party, which terms, conditions, exceptions, exemptions and limitations shall be deemed incorporated herein and made a part hereof.

The ship shall have liberty to sail in or out of ports or elsewhere without pilots, whether or not compulsory or customary, to tow and assist vessels or craft in any situations, to save or attempt to save life or property, whether the property be that of the Carrier or others, including the liberty to depart from her course to any extent for any of such purposes.

The Carrier shall not be liable for loss or damage occasioned by ~~[illegible]~~ of fire on or other waters; by fire from any cause or wheresoever occurring; by barratry of the Master or crew; by enemies, pirates or robbers; by ~~[illegible]~~ and ~~[illegible]~~ Raiders or people, riots, strikes, or stoppage of labor; by explosion, bursting of boilers, breakage of shafts, or any latent defect in hull, machinery or ~~[illegible]~~ unseaworthiness of the steamer, whether existing at time of shipment, or at beginning of the voyage provided the Owners have exercised due diligence to make the steamer seaworthy; by heating, frost, decay, putrefaction, vermin, change of character, stowage, leakage, breakage, wastage, or any loss or damage arising from the inherent defect, quality or vice of the ~~[illegible]~~ insufficiency of packages; nor for risk of craft, hulls or transhipment; nor for any loss or damage caused by prohibitions of the voyage.

General Average shall be adjusted, stated and settled according to York-Antwerp Rules ~~[illegible]~~ 1974 at any port or place selected by the Carrier.

In the event of accident, danger, damage, or disaster, before or after commencement of the voyage resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the Carrier is not responsible, by statute, contract or otherwise, the goods, shippers, consignees, or owners of the goods shall contribute with the Carrier in general average to the payment of any sacrifices, losses, or expenses of a general average nature that may be made or incurred, and shall pay salvage and special charges incurred in respect of the goods. If a salving ship is owned or operated by the Carrier, salvage shall be paid for as fully and in the same manner as if such salving ship or ships belonged to strangers.

If the ship comes into collision with another vessel as a result of the negligence of the other vessel and any act, neglect or default of the Master, mariners, pilot or other servants of the Carrier in the navigation or in the management of the ship, the owners of the goods carried hereunder will indemnify the Carrier against all loss or liability to the other or non-carrying vessel or her Owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever, of the owners of said goods, paid or payable by the other or non-carrying vessel or her owners to the owners of said goods and set-off, recouped or recovered by the other or non-carrying vessel or her Owners as part of their claim against the carrying ship or carrier. The foregoing provisions shall also apply where the Owners, operators or those in charge of any vessel or vessels or objects other than, or in addition to, the colliding vessels or objects are at fault in respect of a collision, contact, stranding or other accident.

This Bill of Lading shall have effect subject to the provisions of the United States Carriage of Goods by Sea Act, approved April 16, 1936, which shall be deemed to be incorporated herein and nothing contained herein shall be deemed a surrender by the Carrier of any of its rights or immunities or an increase of any of its responsibilities or liabilities under said Act. If any term of this Bill of Lading is repugnant to said Act to any extent, such term shall be void to that extent, but no further. The provisions stated in said Act shall govern throughout the entire time the goods are in the custody of the Carrier.

The Carrier shall have a lien on all goods for all freight, primage, charges and all obligations payable by or chargeable to the goods, shipper or consignee.

If the ship is not owned or chartered by demise to the Company or Line by whom this Bill of Lading is issued (as may be the case notwithstanding anything that appears to the contrary) this Bill of Lading shall take effect only as a contract with the Owner or Demise Charterer as the case may be as principal made through the agency of the said Company or Line who act as agents only and shall be under no personal liability whatsoever in respect thereof.

In accepting this Bill of Lading, the shipper, owner and consignee of the goods and the holder of the Bill of Lading agree to be bound by all stipulations, exceptions and conditions, whether written or printed, as fully as if signed by such shipper, owner or consignee.

IN WITNESS WHEREOF the Master or Agent of said ship has affirmed to ___ (3 (three)) Bills of Lading, all of this tenor and date, one of which being accomplished, the others to stand void.

BY AUTHORITY OF THE MASTER

D. Toro

R. A. MARTINIA Y COMERCIAL

J. H. WILLIAMS (BUENOS AIRES) Master.

Dated, SAN LORENZO 16 [illegible]

BOARD
16 JUL 1976

LL THE TERMS, PROVISIONS
AS OF BULK SUGAR CHARTER
(October, 1969) DATED AT
JUNE 1976

PAYABLE AS
(TER PARTY

INDUSTRIAL

157

PHILIPP BROTHERS
DIVISION OF
ENGELHARD MINERALS & CHEMICALS CORPORATION

FARR MAN & CO., INC.

M. GOLODETZ & CO., INC.
WITHOUT RECOURSE
CITIBANK, N.A.

Exhibit C

BILL OF LADING

2

SHIPPED in apparent good order and condition by LEDESMA S.A.A.I. on board the ___ Steamship or Motorship m/s ASIA MORALITY now lying in the Port of BUENOS AIRES and bound for U.S.A.

with liberty to call at any port or ports in or out of or beyond the scheduled or customary route, in any rotation or any order, for any purpose whatsoever, including, but not limited to, receiving or discharging fuel, stores or cargo, or go on drydock and all such ports, places, sailings and procedures shall be deemed incl[illegible] within the intended voyage

10,500 NET METRIC TONS ARGENTINE CANE RAW SUGAR IN BULK

SAID TO WEIGH

as per margin, shippers weight (weight, quality, contents and value unknown) (if non-negotiated) and to be transported subject to the terms of this Bill of Lading whether printed, written, typed or incorporated herein, to the part of BY/CLARE and there delivered unto

TO ORDER

or to his or their assigns, he or they paying freight on the goods on or before delivery, [illegible] the rate of in accordance with Charter Party dated LONDON, 27th JUNE 1978

This Bill of Lading is subject to all the terms, conditions, exceptions, exemptions and limitations contained in said Charter Party, which terms, conditions, exceptions, exemptions and limitations shall be deemed incorporated herein and made a part hereof.

The ship shall have liberty to sail in or use of ports or shelters without pilots, whether or not compulsory or customary, to tow and assist vessels or craft in any situations, to save or attempt to save life or property, whether the property be that of the Carrier or others, including the liberty to depart from her course to any extent for any of such purposes.

The Carrier shall not be liable for loss or damage occasioned by perils of the sea or other waters; by fire from any cause or howsoever occurring; by barratry of the Master or crew; by enemies, pirates or robbers; by arrest and restraint of Princes, Rulers or people, riots, strikes, or stoppage of labor; by explosion, bursting of boilers, breakage of shafts, or any latent defect in hull, machinery or appurtenances, or unseaworthiness of the steamer, whether existing at time of shipment, or at the beginning of the voyage provided the Owners have exercised due diligence to make the steamer seaworthy; by heating, frost, decay, putrefaction, vermin, change of character, shrinkage, leakage, breakage, vermin, or any loss or damage arising from the insufficiency of packages; nor for risk of craft, hulk or transhipment; nor for any loss or damage caused by prohibition of the voyage.

General average shall be adjusted, stated and settled according to York-Antwerp Rules, [illegible] at such port or place selected by the Carrier.

In the event of accident, danger, damage or disaster, before or after the commencement of the voyage resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the Carrier is not responsible by statute, contract or otherwise, the goods, shippers, consignees, or owners of the goods shall contribute with the Carrier in general average to the payment of any sacrifices, losses, or expenses of a general average nature that may be made or incurred, and shall pay salvage and special charges incurred in respect of the goods. If a salving ship is owned or operated by the Carrier, salvage shall be paid for as fully and in the same manner as if such salving ship or ships belonged to strangers.

If the ship comes into collision with another ship as a result of the negligence of the other vessel and any act, neglect or default of the Master, mariners, pilots or other servants of the Carrier in the navigation or in the management of the ship, the owners of the goods carried hereunder will indemnify the Carrier against all loss or liability to the other or non-carrying vessel or her Owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever, of the owners of said goods, paid or payable by the other or non-carrying vessel or her owners to the owners of said goods and set-off, recouped or recovered by the other or non-carrying vessel or her Owners as part of their claim against the carrying ship or carrier. The foregoing provisions shall also apply where the Owners, operators or those in charge of any vessel or vessels or objects other than, or in addition to, the colliding vessels or objects are at fault in respect of a collision, contact, stranding or other accident.

This Bill of Lading shall have effect subject to the provisions of the United States Carriage of Goods by Sea Act, approved April 16, 1936, which shall be deemed to be incorporated herein and nothing contained herein shall be deemed a surrender by the Carrier of any of its rights or immunities or an increase of any of its responsibilities or liabilities under said Act. If any term of this Bill of Lading is repugnant to said Act to any extent, such term shall be void to that extent, but no further. The provisions stated in said Act shall govern throughout the entire time the goods are in the custody of the Carrier.

The Carrier shall have a lien on all goods for all freight, primage, charges and all obligations payable by or chargeable to the goods, shipper or consignee.

If the ship is not owned or chartered by demise to the Company or Line by whom this Bill of Lading is issued (as may or the case not withstanding anything that appears to the contrary) this Bill of Lading shall take effect only as a contract with the Owner or Demise Charterer as the case may be as principal made through the agency of the said Company or Line who act as agents only and shall be under no personal liability whatsoever in respect thereof.

In accepting this Bill of Lading, the shipper, owner and consignee of the goods and the holder of the Bill of Lading agree to be bound by all stipulations, exceptions and conditions, whether written or printed, as fully as if signed by such shipper, owner or consignee.

IN WITNESS WHEREOF the Master or Agent of said ship has affirmed to 3 (THREE) Bills of Lading, all of this tenor and date, one of which being accomplished, the others to stand void.

BY AUTHORITY OF THE MASTER

Dated BUENOS AIRES, 23 AGO 1978

Master.

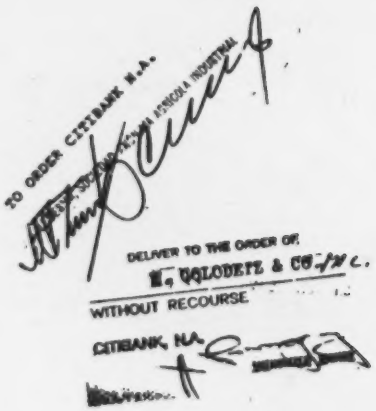
S. A. MARITIMA Y COMERCIAL
J. R. WILLIAMS (BUENOS AIRES)

. TERMS, PROVISIONS AND BULK SUGAR CHARTER PARTY 1969) DATED AT LONDON

FREIGHT PAYABLE AS PER CHARTER PARTY

ARGENTINA INDUSTRIAL

159


TO ORDER CITIBANK N.A.
DELIVER TO THE ORDER OF
M. GOLDBERG & CO., INC.
WITHOUT RECOURSE
CITIBANK, N.A.

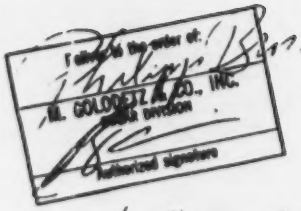

M. GOLDBERG & CO., INC.
Authorized Signature

Exhibit D

Asia Morality

2. 870648
2. 70
5. 570648

CUSTOM ENTRY NO	ENTRY Number		
			38543190
	293	8114382I-4	<7765992>
			29077198
8114382G-9	258/259/279-285/287-290/301		<619792>
8114382H-2	260-265/318		<307653>
8114382B-5	256/257/266-278/286/312		<741879>
8114382C-8	314/315/320-325		<356904>
8114382J-0	255		<40502>
8114382K-3	254		<40275>
8114382L-6	319		<40602>
			26929391
8114382M-4	246/247/250-253/313/335/334		<3973116>
8114382N-1	294 297		<9634408>
8114382P-6	293 300		<6397869>

Exhibit E

Customs Form 3310.0
THE DEPARTMENT OF THE TREASURY
19 U.S.C. 1313(b), C. S. ; 19 U.S.C. 1313
May 1980

DRAWBACK ENTRY AND CERTIFICATE OF MANUFACTURE FOR EXPORTED ARTICLES

BILL 3830-8
Jan/295

BUREAU OF CUSTOMS

Form approved.
Budget Bureau No. 48-R040

Port of SAVANNAH, GEORGIA (State) September 4, 1981

ENTRY FOR DRAWBACK, filed by SAVANNAH FOODS & INDUSTRIES, covering articles exported under Notices of Exportation or Lading, said notices and the articles covered thereby being particularly set forth here below, together with the imported merchandise designated and the quantity, kind, and quality of merchandise used in the manufacture of such articles, under the provisions of section 313(b), Tariff Act of 1930, as amended.

Drawback claimed under T. D. 80 260 (b) B/L

No. and Marks of Exp. or Lading	EXPORTING VESSEL	Date of Clearance	NAMES OF CONSIGNEES	No. of Packages	QUANTITY AND DESCRIPTION OF EXPORTED ARTICLES
65 B	Glasgow	8/31/81		40,287	Refined Sugar Poly Jute Bags White Refined Lbs. 2,222,331 Refined Lbs.
66 B	Chichester	9/1/81		40	40 Poly Jute Bags White Refined Lbs. 2,205 Refined Lbs.
				40,327	4,427,536

DESIGNATED DUTY-PAID SUGAR, METAL, ORE CONTAINING METAL, FLAXSEED OR LINSEED, OR FLAXSEED OR LINSEED OIL (or products manufactured under drawback regulations)

No. of Import Entry	By Whom Imported	Name of Vessel	Date of Importation	Where Imported	Marks	Quantity, Kind, and Quality	Date Received at Factory	Date Used in Manufacture	Date of Duty Paid	Certificate of Manufacture, Delivery, or Withdrawal No.
035475	SAVANNAH FOODS & INDUSTRIES	ASIA MORALITY	9/14/78	SAVANNAH	RAW	36,843,190	8/15-22/78	Sept '78	7.9965¢ Duty 2.70	

QUANTITY, KIND, AND QUALITY OF MERCHANDISE USED						Value of the Product	Quantity of Waste, if any	Factory Value of Waste	QUANTITY AND DESCRIPTION OF ARTICLES PRODUCED
REFINED EXPORTED	POLARIZATION	RAFFINOSE	CR	MO	SUCROSE ALLOWANCE				
4,427,536	Ave. 0	0.0%	12PPM		1.010147				

"Unknown Value at the Factory," "Quantity of Waste, if any," and "Factory Value of Waste," to be filled in only when necessary for liquidation of drawback entry.

We, CARL ESPY, III , ATTORNEY-IN-FACT, [redacted], and GEORGE FAWCETT, VICE PRESIDENT SAVANNAH FOODS & INDUSTRIES, of PORT WENTWORTH, GEORGIA, [redacted], declare that the articles described above were manufactured or produced on 8/31/81 - 9/1/81 MARCH 27, 1980, 19..., by SAVANNAH FOODS & INDUSTRIES, at PORT WENTWORTH, GEORGIA, in accordance with the statement of the said firm or company subscribed to ..., 19..., on file with the District Director of Customs at MIAMI, FLORIDA, with the use of the above-described merchandise; that the articles manufactured or produced from the said merchandise have not been in use or become damaged or deteriorated; that a true record of all articles manufactured or produced for export from the above-described merchandise is kept at such place or factory; that the weights, quantities, and/or measure of the articles manufactured or produced and the merchandise used and designated as above specified, are true and correct; that such record is at all times open to the inspection of officers of the customs; that the articles above described have been delivered to GLASGOW and CHICHESTER on Shiloh Ave. 8/31/81 on ..., that the data shown above with respect to the duty-paid merchandise designated are in accordance with the record of importation of said firm or company or the Certificate of Manufacture and Delivery or the Certificate of Delivery, as noted above, a copy of which as furnished by the importer or manufacturer is on file in this office, and, according to said record or certificate, no part of the duties paid have been refunded heretofore by way of drawback or otherwise; that the designated merchandise has not, subsequent to importation, been used or become damaged or deteriorated; and that duty free or domestic merchandise of the same kind and quality as that designated was used in production within a period not to exceed 3 years from the receipt of the said designated merchandise.

[redacted]
ATTORNEY-IN-FACT
[redacted]
VICE PRESIDENT

162

DECLARATION OF EXPORTATION

I, CARL ESPY, III, ATTORNEY-IN-FACT (member of firm, officer representing corporation, agent, or attorney), of SAVANNAH FOODS & INDUSTRIES, INC. declare that, according to the best of my knowledge and belief, the particulars of exportation stated in this entry and the notice of exportation or lading are correct, and, that such merchandise is not to be relanded in nor returned to the United States, nor is it to be consumed as supplies or stores on the exporting vessel or conveyance.

Exporter or Agent.

Date 2/16/81

DECLARATION OF LADING OR USE

I, ... (member of firm, officer representing corporation, agent, or attorney), of .....
declare that, according to the best of my knowledge and belief, the particulars of lading (or use) stated in this entry, the notice of lading, and receipts are correct, and that such merchandise is not to be relanded in the United States or any of its possessions, but is to be

(has been) used on the vessels or aircraft named herein for .....

.....

.....
(State specifically, or fill in supplies, equipment, instruments, or repair)

as specified in section 309 of the Tariff Act of 1930, as amended, or I. R. C. section 4222.

.....
Shipper or Agent.

Date .....

Customs Form 7876-B

Entry No. C11-93830-2

DRAWBACK ON DOMESTIC MANUFACTURES

For use under sec. 313(b), T. A. 1930, as amended

Collection District No. .....

Port of .....

MANUFACTURED BY

.....

EXPORTED BY

.....

Date of clearance .....

This form may be printed by private parties, provided it conforms to official form in size, wording, color, and arrangement. For sale by District Directors of Customs.

GPO 903 580

Exhibit E

SAVANNAH FOODS & INDUSTRIES, INC.
P. O. BOX 339
SAVANNAH, GEORGIA
31402

EXHIBIT "A"

ACCELERATED PAYMENT REQUEST

I HEREBY REQUEST ACCELERATED PAYMENT OF DRAWBACK UNDER THE PROVISIONS OF 22.20a CUSTOMS REGULATIONS.

GROSS AMOUNT CLAIMED	$ 944,700.38
LESS 1%	9,447.00
	$ 935,253.38

NET DRAWBACK
(Amount Claimed on Accelerated Payment)

ENTRY NO: 811-3830-8

295/300

ACCELERATED PAYMENT BOND (TERM) ATTACHED, OR ON FILE WITH THE REGIONAL COMMISSIONER. TERM BOND # DRA-1-0:C:L BC IN THE AMOUNT OF $ 4,000,000. . EXPIRATION DATE 3/31/82

CUSTOMS REGULATIONS

" IN CONFORMANCE WITH SECTION 22.42 NONE OF THE MERCHANDISE HEREIN CLAIMED WAS SOLD TO UNITED STATES GOVERNMENT OR ANY DEPARTMENT, BRANCH OR AGENCY THEROF."

ASST. VICE-PRESIDENT-RAW SUGAR

Exhibit F

12916

No. 4.5%

Abstract From the refinery records of SAVANNAH FOODS & INDUSTRIES, INC., located at PORT WENTWORTH-SAVANNAH, GA., covering sugars melted and hard, soft, liquid refined sugars and sirups produced therefrom during the period from April 27,1981 - May 29,1981 Inclusive

RAW STOCK RECORD

														MELT RECORD			
			PACKAGES												POLARIZATION		
			Number	Kind	Pounds	Polarization	If Sugar Imported or Withdrawn	Date of Importation	Date of Entry or Withdrawal	Date of Melt	Vessel	Quantity of Sirups	Pounds	Pol Corr.	Pounds Sucrose
PF 05126 - PF 05199				BULK	49 800 000	99.9971	Superfine Pol = 99.9	—	4/15-5/01/81	4/29-5/01/81	[illegible]	F.A.	49 800 000	99.9971	49 785 627
S 197 - PF 05	SAB			"	7 209 636	99.8742	" " "	—	4/27 - 5/04/81	5/5/81	CHARTER-81	"	7 209 636	99.8742	7 197 10
PF 05 5197 - S198				"	1 258 800	99.8742	" " "	—	5/5/81	5/5/81	Anchor-81	"	1 258 800	99.8742	1 247 216
S200 - S201 PF 05	PF 05			"	7 782 134	99.7442	" " "	—	5/5/81 Caledonia	5/5/81	Ottawa-81	"	7 782 134	99.7442	7 761 320
S 201 - 80				"	8 896 570	99.8442	" " "	—	5/5-5/6/81	5/5-5/6/81	Cayman-81	F.A. Bulk	9 628 770	99.8442	9 611 279
S 202 - 80		Refinery-81		STEAM	1 231 668	99.83	" " "	—	5/6/81	5/6/81	U.S.A.	Bulk	1 231 668	99.83	1 229 287
S 1 - 81		Refinery-81		Bulk	7 458 870	99.8442	" " "	4/5/81	5/6/81	5/6/81	Transocean Sun		6 165 510	99.8442	5 154 240
S 2 - 81		Refinery-81		"	23 785 800	99.8442	" " "	4/20/81	5/6/81	5/6/81	C/S Rotterdam	Bulk	23 785 800	99.8442	23 731 160
S 9 - 81		Refinery-81		"	27 995 [illegible]	99.8442	" " "	5/1/81	5/6/81	5/6/81	M/V Transocean Sun	Bulk	4 815 200	99.8442	4 798 660
S 16 - 80				"	10 857 200	99.8442	" " "	—	5/6/81	5/6/81	Transocean Sun	F.A.	9 967 800	99.8442	9 776 496
													[illegible]	[illegible]	119 680 [illegible]

SIRUP STOCK RECORD

Date of Boiling	Strength Degrees Baume	Quantity of Sirup in Gallons	Pounds Refined Sugar Equivalent Therein
4/29 thru 5/01/81			
MOLASSES-S		946 932	1 393 011
LOAFCUT		166 326	1 355 055

REFINED SUGAR STOCK RECORDS

Packages Number	Kind	Date of Withdrawal	Grade or Sort Number	Polarization per Lb.	Net Weight in Pounds
	Bags-50 lbs. Loose		Bulk Sugar	100.040	100 800 000
			LBS	PKGS	Sucrose
Tolnut	100 lb bags	4/24,25	24 6	7 800 483	
Cannon #1	"	4/24,27	67.8	2 [illegible]	
Cannon #2	"	4/27,28	67.8	1 [illegible]	
	Soft	Sugar			
		LBS	POL	Sucrose	
Light		509 453	98.009	499 [illegible]	
Medium		156 600	98.009	153 [illegible]	
Dark		543 [illegible]	98.009	532 [illegible]	

Description	Pounds
[illegible]	25 983 801
[illegible]	119 687 [illegible]
[illegible]	26 [illegible]
[illegible]	119 [illegible]
[illegible]	119 537 [illegible]

I, [illegible] the [illegible] Refiner at SAVANNAH FOODS & INDUSTRIES, INC., located at Port Wentworth-Savannah, Ga., do solemnly and truly declare that each of the statements contained in the foregoing abstract is true to the best of my knowledge and belief and can be verified by the refinery records, which have been kept in accordance with Section 27.6(f) of the Customs Regulations and which are at all times open to the inspection of officers of the customs.

DATE June 19 1981

Subscribed to before me this 19th day of August, 1981

Notary Public, Chatham County, Ga.
My Commission Expires Feb. 12, 1984

Exhibit G

DEPARTMENT OF THE TREASURY — UNITED STATES CUSTOMS SERVICE — Customs Form 7513 (10-1-71) — 19 CFR 113.62, 113.64, 113.67 C.A.

NOTICE OF EXPORTATION OF ARTICLES WITH BENEFIT OF DRAWBACK

SAVANNAH — CUSTOMS DISTRICT OF

CERTIFICATE OF EXPORTATION

SAVANNAH FOODS & INDUSTRIES, INC.
P. O. BOX 339
SAVANNAH, GA 31402

2 DOCUMENT NO. (Exclude Blanks of Exportation Number): 295

3 EXPORT REFERENCES*: JSJ REF: 15-842

#663

Consigned To*: TO ORDER OF SHIPPERS

7 FORWARDING AGENT (Name and address - Reference no)*: JOHN S. JAMES COMPANY, FMC # 150-R

8 FOREIGN PORT AND COUNTRY OF ORIGIN*

4 FOREIGN PORT (OR DESTINATION) OF CONSIGNEE (Name and address)*: MINISTRY OF SUPPLY
Amman, JORDAN

9 DOMESTIC ROUTING/EXPORT INSTRUCTIONS*: GAY TRUCKING CO.

5 LOADING PIER (If vessel): CAREN CITY TERMINAL GPA

6 EXPORTING CARRIER (If manifested number or van no. & name): UNKNOWN

10 PORT OF LOADING: SAVANNAH

11 FOREIGN PORT OF UNLOADING (If vessel and air only): AQABA

14 FOR TRANSSHIPMENT TO

15 ONWARD INLAND ROUTING*

16 METHOD OF TRANSPORTATION: ☐ Vessel ☐ Air ☐ Other

18 DATE OF EXPORTATION (Not required for vessel shipments): MAY 4, 1981

17 PLACE AND COUNTRY OF ULTIMATE DESTINATION: AMMAN, JORDAN

* FURNISHING OF THIS INFORMATION IS OPTIONAL

12 MARKS AND NUMBERS	13 NO OF PKGS	19 DESCRIPTION OF ARTICLES	20 GROSS WEIGHT (Pounds)	21 MEASUREMENT	21 D/O	22 SCHEDULE B COMMODITY NO.*	23 NET QUANTITY (Shown Unit)	24 VALUE* (Nearest Dollar)
4/27 - 5/3	20	(TWENTY) 50 KILO NEW POLY JUTE BAGS WHITE REFINED SUGAR SHIPMENT DATE: MAY 4, 1981 PRODUCTION DATES: 4/27/81 - 5/03/81 EXPORT LICENSE G-DEST	22250	MANUFACTURER: SAVANNAH FOODS & INDUSTRIES, INC. SAVANNAH, GA.	D	155.2025	22050	529.

CARL ESPY III, ATTY-IN-FACT

MR. FRED BEVILL
P. O. BOX 339
SAVANNAH, GA 31402

Wanda S. Butler

EXHIBIT G

ENDORSEMENTS

The undersigned hereby authorizes _____ _____ _____ _____ to make entry and receive the drawback on the within-described articles.	The undersigned hereby disclaims any right or interest to and in the drawback on the within-described articles and declares that _____ _____ _____ _____ is the real shipper and exporter of such articles.	The undersigned hereby disclaims any right or interest to and in the drawback on the within-described articles and certifies that _____ _____ _____ _____ on the sale or consignment of the articles, reserved the right to the drawback thereon with the knowledge and consent of the undersigned.
NAME	NAME	NAME
BY *(Name)*	BY *(Name)*	BY *(Name)*
TITLE	TITLE	TITLE

POSTMASTER'S CERTIFICATE

U.S. POST OFFICE: _____ CITY AND STATE _____ DATE OF MAILING

I certify that the packages bearing the marks and numbers as described in this notice of exportation were placed in the mails under my supervision. I further certify that each package had stamped or written thereon, signed by the exporter, a waiver of the right to withdraw such package from the mails.

SIGNATURE OF POSTMASTER

This ... may be printed by private parties provided that the supply printed by them conforms to this official form in size, wording, arrangement, and quality and color of paper. For sale by Superintendent of Documents, ...

GPO 945-687

Exhibit G

(SPACES IMMEDIATELY BELOW ARE FOR SHIPPER'S MEMORANDA—NOT PART OF BOOK RECEIPT)

DELIVERING CARRIER TO STEAMER	CAR NUMBER—REFERENCE

FORWARDING AGENT—REFERENCES	EXPORT DEC. No.
JOHN S. JAMES CO. FMC #1150-R VSJ REF: 15-842	

BILL OF LADING

(Conditions Continued from Reverse Side Hereof)

SHIPPER SAVANNAH FOODS & INDUSTRIES, INC., P O BOX 339, SAVANNAH, GEORGIA 31402

CONSIGNED [redacted] TO ORDER OF SHIPPERS

ADDRESS ARRIVAL NOTICE TO	ALSO NOTIFY
NOTIFY MINISTRY OF SUPPLY AMMAN JORDAN	

SHIP	VOYAGE NO.	FLAG	PIER	PORT OF LOADING
UNIWORLD		LIBERIAN	GCT	SAVANNAH, GA.

FOR PORT OF DISCHARGE (If here goods are to be delivered to consignee or assignee)
AQABA JORDAN

For TRANSSHIPMENT to (If goods are to be transshipped or forwarded as part of discharge)

PARTICULARS FURNISHED BY SHIPPER OF GOODS

MARKS AND NUMBERS	No. of PKGS.	DESCRIPTION OF PACKAGES AND GOODS	MEASUREMENT	GROSS WEIGHT
N/A	206000 BAGS	10,300 NET METRIC TONS NORTH AMERICAN WHITE REFINED FREE RUNNING SUGAR POLARIZATION 99.8 DEGREES MINIMUM 0.1 PCT MAXIMUM ASH 0.1 PCT MAXIMUM COLOUR (60) ICUMSA MAXIMUM PACKED IN 206,000 DOUBLE LAYER BAGS THE EXTERNAL IS NEW JUTE AND THE INTERNAL IS POLYETHELENE 50 KILOS NET EACH FREIGHT PREPAID RECEIVED ON BOARD MAY 4, 1981 SIGNATURE EXPORT LICENSE G-DEST "United States law prohibits disposition of these commodities to the Soviet Bloc, Laos, The People's Republic of China, North Korea, Vietnam, Cambodia or Cuba, unless otherwise authorized by the United States."		10393.44 GRS M/

COPY - NOT NEGOTIABLE

FREIGHT PAYABLE IN

@ PER 2240 LBS.	$
@ PER 100 LB.	$
FT. IN. @ PER 40 CU. FT.	$
FT. IN. @ PER CU. FT.	$
FREIGHT PAYABLE AS PER CHARTER PARTY AGREEMENT DATED APRIL 14, 1981	$
	$
	$
TOTAL	$

(CONDITIONS CONTINUED FROM REVERSE SIDE HEREOF)

IN WITNESS WHEREOF, THERE HAVE BEEN EXECUTED THREE BILLS OF LADING, ALL OF THE SAME TENOR AND DATE, ONE OF WHICH BEING ACCOMPLISHED, THE OTHERS TO STAND VOID.

STRACHAN SHIPPING CO., AGENTS

BY _____
FOR THE MASTER

ISSUED AT SAVANNAH, GA. MAY 4, 1981
(DATE)

B/L No. 1

Form #35-084 Printed and Sold by Uax & Co., Division of Scott Printing Corp., 190 Baldwin Ave., Jersey City, N.J. 07306 — N.J. (201) 795-5400 / N.Y. (212) 344-2270 Toll Free (800) 631-3098

BILL OF LADING
(SHORT FORM)

RECEIVED from the shipper named on the reverse side hereof the goods, or packages said to contain goods hereinafter mentioned in apparent good order and condition unless otherwise indicated in this bill of lading, to be transported to the port of discharge and there to be delivered or transhipped and forwarded on the terms hereinafter stated. In every contingency whatsoever and even in case of deviation or of unseaworthiness of the ship at time of loading or at any subsequent time, the rights and obligations, whatsoever they may be, of each and every person having any interest of duty whatsoever in respect of the receipt, care, custody, carriage, delivery or transhipment of the goods whether as shipper, consignee, holder or endorsee of the bill of lading, receiver or owner of the goods, master of the ship, carrier, shipowner, demise charterer, time charterer, operator, agent, bailee, warehouseman, forwarder or otherwise howsoever, shall be subject to and governed by the terms of the carrier's regular bill of lading, which shall be deemed to be incorporated herein, including any amendments thereto or special provisions thereof which may be in effect at the time the goods are received for shipment and applicable to the intended voyage. Copies of such regular bill of lading and amendments may be obtained on application to the office of the Company or its Agent at the port of loading or port of discharge. This shipment shall have effect subject to the provisions of the Carriage of Goods by Sea Act of the United States, approved April 16, 1936, which shall be deemed to be incorporated herein and nothing herein contained shall be deemed a surrender by the carrier of any of its rights or immunities or an increase of any of its responsibilities or liabilities under said Act. The provisions stated in said Act shall (except as may be otherwise specifically provided in the bill of lading referred to above) govern before the goods are loaded on and after they are discharged from the ship and throughout the entire time the goods are in the custody of the carrier. Nothing herein contained, whether by express statement, reference, implication or otherwise, shall be deemed a surrender of any rights or immunities or an increase of any responsibilities or liabilities which the ship, her owner, charterer, operator, agent or master or any carrier, bailee, warehouseman, or forwarder of the goods or the agent of any of them would have in the absence of this bill of lading. None of the terms of this bill of lading shall be deemed to have been waived by any person unless by express waiver signed by such person, or his duly authorized agent.

IN ACCEPTING THIS BILL OF LADING, the shipper, consignee, pledgee, holder or endorsee of this bill of lading, receiver, owner of the goods and each of them agree that all freight engagements, dock receipts or other agreements whatsoever in respect of the shipment of the goods are superseded by this bill of lading, and agree to be bound by all its terms whether written, printed or stamped on the front or back thereof or incorporated by reference therein, any local customs or privileges to the contrary notwithstanding.

If requested, one signed bill of lading duly endorsed must be surrendered to the agent of the ship at the port of discharge in exchange for delivery order.

(CONDITIONS CONTINUED ON REVERSE SIDE HEREOF)

DO NOT USE THIS SPACE FOR DESCRIPTION OF SHIPMENT

NOTICE OF EXPORTATION OF ARTICLES WITH BENEFIT OF DRAWBACK

SAVANNAH, PORT OF

FORM APPROVED O.M.B. No. 48R0152

CERTIFICATE OF EXPORTATION

The records of this office show that the merchandise covered by described forms, to the quantities stated were exported from this port by the exporter named thereon as set forth thereon, except as indicated below.

658

EXPORTER (Principal or Seller (Licensee and address))

SAVANNAH FOODS & INDUSTRIES, INC.
P. O. BOX 339
SAVANNAH, GA 31402

5 DOCUMENT NO (Include Number of Exportation Bond)

300

6 EXPORT REFERENCES*

JSJ REF: 15-704

CONSIGNED TO*

TO ORDER

7 FORWARDING AGENT (Name and address - References)*

JOHN S. JAMES COMPANY, PHC # 150-R

8 POINT AND COUNTRY OF ORIGIN*

SAVANNAH, GA USA

NOTIFY PARTY/INTERMEDIATE CONSIGNEE (Name and address)*

TURK SEKAR ANKARA AND PANCAR
ISTANBUL
TURKEY

9 DOMESTIC ROUTING/EXPORT INSTRUCTIONS*

GAY TRUCKING CO.

DATE CLEARED: 5/27/81

DISTRICT DIRECTOR OF CUSTOMS

BY: D. Butler

TITLE: Insp

PIER OR AIRPORT: ARDEN CITY TERMINAL GPA

11 METHOD OF TRANSPORTATION: ☐ Vessel (Name of Vessel) ☐ Air ☐ Other (Specify)

10 DATE OF EXPORTATION (Not required for vessel shipments): MAY 21, 1981

EXPORTING CARRIER (Conveyance number or car no. & initials): GLASCOM

12 PORT OF LOADING: SAVANNAH

17 PLACE AND COUNTRY OF ULTIMATE DESTINATION: ISTANBUL, TURKEY

INTERMEDIATE CARRIER (Conveyance number or car no. & initials): ANY TURKISH PORT(S)

14 FOR TRANSSHIPMENT TO

16 ONWARD INLAND ROUTING*

* FURNISHING OF THIS INFORMATION IS OPTIONAL

16 MARKS AND NUMBERS	17 NO. OF PKGS	18 DESCRIPTION OF ARTICLES	19 GROSS WEIGHT (Pounds)	20 MEASUREMENT	21 D CR F	22 SCHEDULE B COMMODITY NO.*	23 NET QUANTITY (Shipping Units)	24 VALUE* (Nearest Dollar)
4/27 - 5/19	151,704	(ONE HUNDRED FIFTY ONE THOUSAND SEVEN HUNDRED FOUR) 50 KILO NEW POLY JUTE BAGS WHITE REFINED SUGAR	16,874,0358		D	155.2025	167223318	3989944.
		SHIPMENT DATE: MAY 21, 1981						
		PRODUCTION DATES: 4/27/81 - 5/19/81						
		EXPORT LICENSE G-DEST	MANUFACTURER: SAVANNAH FOODS AND INDUSTRIES, INC. SAVANNAH, GA.					

CARL ESPY III, ATTY-IN-FACT

DIRECTOR Also indicate if exportation has been executed, please send this notice to (Name and address)

MR. FRED BEVILL, JR.
P. O. BOX 339
SAVANNAH, GA 31402

The merchandise described in the bottle of 1 exportation are to be exported as stated herein and are not to be unloaded in the United States, and to the best of my knowledge and belief such articles have not been used and are entitled on exportation to a drawback of the duties paid on the imported materials used or their manufacture, or of the internal revenue tax paid on the domestic materials used

Name of exporter or agent (Signature or Agent)

Wanda B. Butler

EXHIBIT G

170

ENDORSEMENTS

The undersigned hereby authorizes	The undersigned hereby disclaims any right or interest to and in the drawback on the within-described articles and declares that	The undersigned hereby disclaims any right or interest to and in the drawback on the within-described articles and certifies that
to make entry and receive the drawback on the within-described articles.	is the real shipper and exporter of such articles.	on the sale or consignment of the articles, reserved the right to the drawback thereon with the knowledge and consent of the undersigned.
NAME	NAME	NAME
BY *(Name)*	BY *(Name)*	BY *(Name)*
TITLE	TITLE	TITLE

POSTMASTER'S CERTIFICATE

CITY AND STATE — DATE OF MAILING

U.S. POST OFFICE:

I certify that the packages bearing the marks and numbers as described in this notice of exportation were placed in the mails under my supervision. I further certify that each package had stamped or written thereon, signed by the exporter, a waiver of the right to withdraw such package from the mails.

SIGNATURE OF POSTMASTER

This form may be printed by private parties provided that the supply printed by them conforms to this official form in size, wording, arrangement, and quality and color of paper. For sale by District Directors of Customs.

ITPO SAT 192

Exhibit G

U.S.A. SHIPPER

SAVANNAH FOODS & INDUSTRIES, INC.
P O BOX 339
SAVANNAH, GA. 31402

BILL OF LADING

TO BE USED WITH CHARTER-PARTIES

No. -1

Reference No. 15-704

JOHN S. JAMES CO. FMC 8150-R

Consignee

TO ORDER

"SUBJECT TO ALL TERMS, CONDITIONS, PROVISIONS AND EXCEPTIONS OF COVERING CHARTER PARTY DATED LONDON 25/3/81 AND ADDENDUM THERETO INCLUDING THE ARBITRATION CLAUSE."

Notify address

TURK SEKAR ANKARA AND PANCAR
ISTANBUL

Vessel: GLASGOW

Port of loading: SAVANNAH, GA.

Port of discharge: ANY TURKISH PORT(S) AS PER C/P DATED LONDON 25/3/81

Shipper's description of goods	Gross weight
WHITE SUGAR PACKING 50 KILOS NET POLYTHENE LINED JUTE BAGS	30,143,330#

RECEIVED ON BOARD MAY 21, 1981

SIGNATURE _____

EXPORT LICENSE G-DEST

271,000 50KG POLY JUTE BAGS

COPY - NOT NEGOTIABLE

"United States law prohibits disposition of these commodities to the Soviet Bloc, Laos, The People's Republic of China, North Korea, Vietnam, Kampuchea, or Cuba, unless otherwise authorized by the United States."

(at vessel's ... on deck at Shipper's risk; the Carrier not being responsible for loss or damage howsoever arising)

Freight payable as per CHARTER-PARTY dated LONDON 25/3/81

FREIGHT ADVANCE

Received on account of freight

Time used for loading _____ days _____ hours.

SHIPPED at the Port of Loading in apparent good order and condition on board the Vessel for carriage to the Port of Discharge or so near thereto as she may safely get the goods specified above.

Weight, measure, quality, quantity, condition, contents and value unknown.

IN WITNESS whereof the Master or Agent of the said Vessel has signed the number of Bills of Lading indicated below all of this tenor and date, any one of which being accomplished the others shall be void.

FOR CONDITIONS OF CARRIAGE SEE OVERLEAF

Freight payable at	Place and date of issue
	SAVANNAH, GA. MAY 21. 1981
Number of original Bs/L	Signature
THREE	STRACHAN SHIPPING CO., AGENTS

Printed and sold by Fr. G. Knudtzon Ltd., H. Tavsensgade, Copenhagen, by authority of The Baltic and International Maritime Conference (BIMCO), Copenhagen.

BILL OF LADING

TO BE USED WITH CHARTER-PARTIES
CODE NAME: "CONGENBILL"
EDITION 1978
ADOPTED BY
THE BALTIC AND INTERNATIONAL
MARITIME CONFERENCE (BIMCO)

Conditions of Carriage.

(1) All terms and conditions, liberties and exceptions of the Charter Party, dated as overleaf, are herewith incorporated. The Carrier shall in no case be responsible for loss of or damage to cargo arisen prior to loading and after discharging.

(2) General Paramount Clause.
This Bill of Lading shall have effect subject to the provisions of any legislation relating to the carriage of goods by sea which incorporates the rules relating to Bills of Lading contained in the International Convention dated Brussels 25th August, 1924, which is compulsorily applicable to the contract of carriage hereof contained. Where no such enactment is in force in the country of shipment the corresponding legislation of the country of destination shall apply, but in respect of shipments to which no such enactments are compulsorily applicable, the terms of the Carriage of Goods by Sea Act, 1924, of the United Kingdom or any statutory modification or re-enactment thereof shall apply.

Scandinavian Trades.
In trades where one of the Scandinavian Maritime Codes apply compulsorily, the Hague-Visby Rules as there enacted shall be considered incorporated in this Bill of Lading. Whenever these provisions apply, the Carrier takes the responsibilities prescribed under Chapter 5 of the applicable Code, relating to the period before loading and after discharging, deck cargo, live animals and carriage performed by another Carrier.

(3) General Average.
General Average shall be adjusted, stated and settled according to York-Antwerp Rules 1974, in London unless another place is agreed in the Charter.

Cargo's contribution to General Average shall be paid to the Carrier even when such average is the result of a fault, neglect or error of the Master, Pilot or Crew. The Charterers, Shippers and Consignees expressly renounce the Netherlands Commercial Code, Art. 768, and the Belgian Commercial Code, Part II, Art. 146.

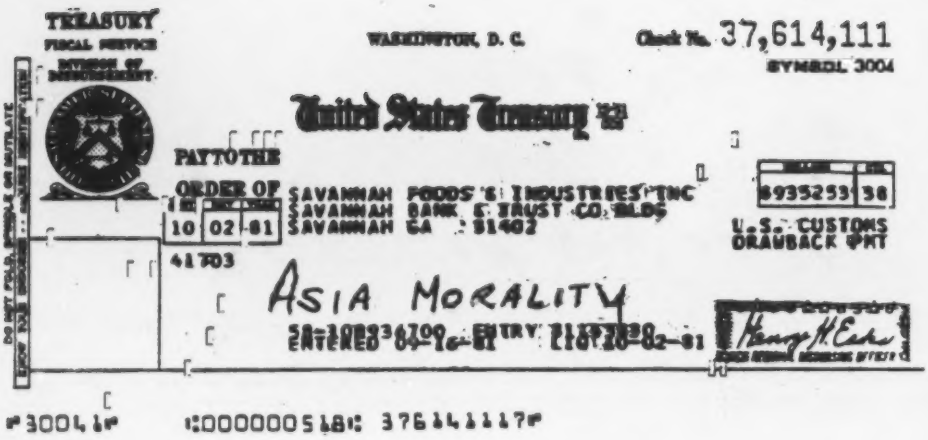
(4) New Jason Clause.
In the event of accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the Carrier is not responsible, by statute, contract or otherwise, the goods, Shippers, Consignees or owners of the goods shall contribute with the Carrier in general average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the goods.

If a salving ship is owned or operated by the Carrier, salvage shall be paid for as fully as if the said salving ship or ships belonged to strangers. Such deposit as the Carrier or his agents may demand to cover the estimated contribution of the goods and any salvage and special charges thereon shall, if required, be made by the goods, Shippers, Consignees or owners of the goods to the Carrier before delivery.

(5) Both-to-Blame Collision Clause.
If the Vessel comes into collision with another ship as a result of the negligence of the other ship and any act, neglect or default of the Master, Mariner, Pilot or the servants of the Carrier in the navigation or in the management of the Vessel, the owners of the cargo carried hereunder will indemnify the Carrier against all loss or liability to the other or non-carrying ship or her Owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of said cargo, paid or payable by the other or non-carrying ship or her Owners to the owners of said cargo and set-off, recouped or recovered by the other or non-carrying ship or her Owners as part of their claim against the carrying Vessel or Carrier. The foregoing provisions shall also apply where the Owners, operators or those in charge of any ship or ships or objects other than, or in addition to, the colliding ships or objects are at fault in respect of a collision or contact.

For particulars of cargo, freight, destination, etc., see overleaf.

Exhibit H


TREASURY
FISCAL SERVICE
BUREAU OF
DISBURSEMENT

WASHINGTON, D. C.

Check No. 37,614,111
SYMBOL 3004

United States Treasury

PAY TO THE
ORDER OF

SAVANNAH FOODS & INDUSTRIES INC
SAVANNAH BANK & TRUST CO. BLDG
SAVANNAH GA 31402

10 02 81

8935253 38

U.S. CUSTOMS
DRAWBACK PMT

41703

ASIA MORALITY

ENTERED 04-16-81 ENTRY 211-77220 10-02-81

DO NOT FOLD, STAPLE OR MUTILATE

#3004# :000000518: 376141117#

EXHIBIT H

Exhibit I

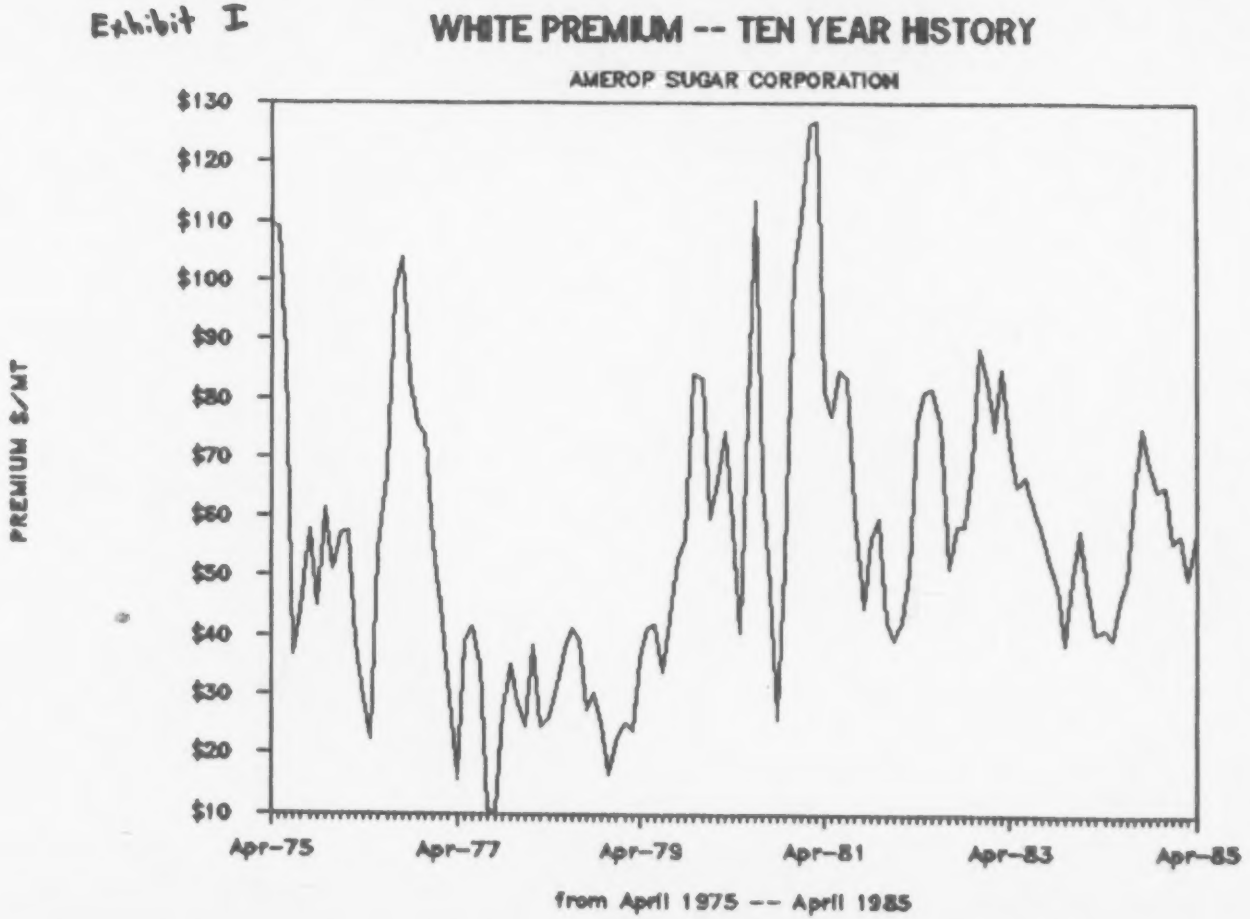

WHITE PREMIUM -- TEN YEAR HISTORY
AMEROP SUGAR CORPORATION
PREMIUM $/MT
$130
$120
$110
$100
$90
$80
$70
$60
$50
$40
$30
$20
$10
Apr-75
Apr-77
Apr-79
Apr-81
Apr-83
Apr-85
from April 1975 -- April 1985

Exhibit J

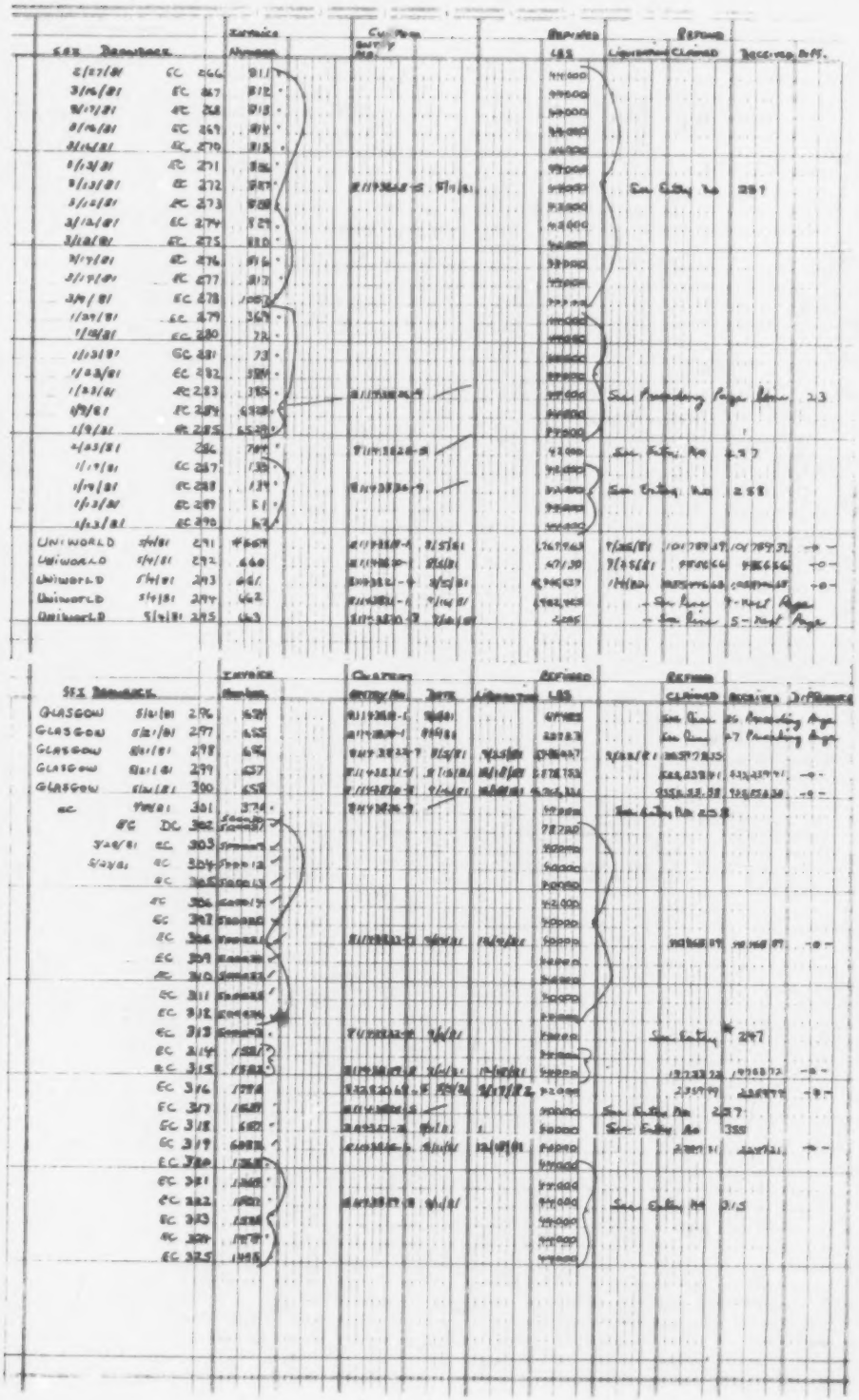


Exhibit K

Offshore Receipts 1978

Date Completed	Seller	Vessel	Net weight	Total to date
1/5/78	Philipp	Eastern Rod (Chris)	19.307.342	
1/12/78	Amerop	Leander	13172.796	32.480.138
1/20/78	Amerop	Kornelia (Capt. C)	17.706.685	50,186,823
4/14/78	Fam/Mon	Sandgate	11.815.408	62,002,231
5/24/78	Cargill	Rollnes	12.207.432	74.209,663
5/26/78	Philipp	Hard Fortune (Chris)	21.789.672	95,999335
6/2/78	Fam/mon	Petrie Sea (Mary) (Chris)	9.165.132	105,164,467
6/19/78	Amerop	Nordraga	27.038.496	132.202.963
6/25/78	Fam/mon	Lone Allyn	34,644.530	166,847.493
7/7/78	Philipp	Acadia	27.490.742	194.338235
7/14/78	Amerop	Mad Justice	33.127.304	227.465.539
7/20/78	Philipp	Jean Frichot (Chris)	24.844.464	252310003
7/23/78	Fam Mon	Jean Frichot (Capt. C)	4526890	256,836893
8/4/78	Fam Mon	Alexandra	12.727.186	269.564.079
8/12/78	Philipp	Jela Spic	21,556.158	291.120.237
9/14/78	Christmon	Leo Zorrado	13.628.458	304,749.095
9/22/78	Fam Mon & Philipp	Asia Mobility	36843.190	341,592.285
9/25/78	Christmon	Agnes Garcia	8.239.048	349.831.333
10/4/78	Philipp	Clarion	7.602.690	357,434.023
10/23/78	Fam Mon	Golden Cornia	25,985,224	383,419,247
12/7/78	Lambom	Asia Carrier	11.387.712	394,806 959
12/7/78	Lambom (Capt. C)		83.052	394,890 11
12/21/78	Philipp	Mystalida	46 609.667	441,499.678

Senator MELCHER. Since you have just gone through these charts, I am going to ask these questions right now rather than wait for the other witnesses because I think they are more appropriate at this time.

What you have shown is the records that you keep, which are entirely understandable and entirely acceptable, but which do not, of course, refute what Customs has told us. They have told us that the key document that they feel that in almost all instances they are going to lack beyond a period of time is the Consumption Entry. On their form of the Consumption Entry, they make notations of their liquidators—that is their term—as drawback for a portion of that particular sugar import that has been claimed and allowed.

Now, their conclusion, as I understand their testimony, is that without Customs' own copies of these documents, Customs cannot even determine where mistakes may have been made in the drawback process by its own employees or those of the applicant.

I am not disputing any of your forms. I am just reiterating their testimony, which I thought was very straightforward.

As Mr. Sprague has testified, and you have suggested, on occasion when they cannot find the right form, they do reconstruct and accept companies' forms as accurate.

They now testify that for somewhere between $240 and $260 million, and conceivably up to $800 million—I do not think you people agree with that and I doubt whether it is anything higher than what you have testified, somewhere between $300 and $400 million.

What Customs is telling us is that they are going to have to accept the copies of the forms that you have. The Consumption Entry, a key document, does lack the notations made by their own liquidators which designate when a portion of a shipment has already received the drawback.

Mr. WILLIAMS. Mr. Chairman, of course, we do not want to assail the statements made by Customs, as such. What we are saying is that basically in response to your question, if Customs does not——

Senator MELCHER. I did not ask any question; I just made a statement.

Mr. WILLIAMS. In response to your statement, then, sir, the response is that in the event, during the period of time, some of which Customs could possibly have avoided not having these documents and they could have frozen the destruction of these records back in 1986—if there are some periods of time in which they do not have documents, there are complete records in the refiners' files which will provide them with those balances.

Those balances are based on Customs' own acknowledgments. This balance here is, of course, the balance that was shown in Customs' own notice of action, exhibit B. This balance of 36,843,190 pounds is the exact number that is then reflected in our ledgers.

This was not created out of the air, sir. This was created from Customs' own documents which they sent us acknowledging our weighers' and our samplers' documents, and also the laboratory which sent them the polarity.

This document was created after this document was received, so therefore——

Senator MELCHER. I am not questioning you on this. You have already stated this. I am accepting that. I am just pointing out to you what their testimony is.

One further point. When you say that you suggested in August 1986 that they not destroy anything, save it beyond the 8-year period, you are only referring to 1 year. What this bill does is refer to more than 1 year. So I think they have been very prudent to not have destroyed anything.

As you have stated—and you need not tell me again—there may be, as you have stated in Miami's case, the very form they wanted, the Consumption Entry form, not destroyed. I understand that.

The dilemma, nevertheless, that they have testified to is one that the language we are talking about in the trade bill leaves up to Customs to invoke. This doctrine—what did you call it, the doctrine of——

Mr. WILLIAMS. Reconstruction.

Senator MELCHER. The doctrine of reconstruction. They invoke it in almost all instances. So that is all they are testifying to. I see their problem. I understand their problem, and I also understand their statement that when there are errors on your documents it will be more difficult to catch them.

I think they have testified, and it is rather easily understood at least by us on the committee, that indeed they do have a problem.

Mr. WILLIAMS. Senator, to better understand this situation, we have with us Mr. Salvatore Caramagno, who was formerly with the Liquidations Office of Customs. He is now serving as attorney with a local law firm, and he can best explain to you this continual use of reconstruction of documents, if you could bear with us for a couple of minutes.

Senator MELCHER. A couple of minutes.

Mr. WILLIAMS. OK.

Mr. CARAMAGNO. As I understood Mr. Rosettie's statement, it concerned certain changes that may have taken place in the liquidation of the Consumption Entry, not the drawback entries, and he said that there were certain notations on those entries which may have changed the duty consequences that the importers did not know about.

Now, if Customs is following its regulations, that simply cannot happen because upon liquidation one of three things can take place. The amount of duty or rate is advanced, in which case a Notice of Action is taken, it is sent to the importer. If there is no change, nothing has happened and the importer can rightfully presume that the amount of money he deposited for that entry is the amount that was collected.

If there is a refund, the importer will get a check, and that is how he has complete knowledge of what has happened to that particular Consumption Entry. So if I understood Mr. Rosettie correctly, the importers do know that.

Senator MELCHER. Let me read to you what he says.

Mr. CARAMAGNO. OK.

Senator MELCHER. "The Customs liquidator notes these changes on the original Consumption Entry. In addition, when a drawback entry is timely filed and the Consumption Entry is designated in whole or in part as a basis of drawback, the liquidator will retrieve

the consumption entry and note on the original Consumption Entry that it was referred to the drawback unit. These important notations are not inserted on the copy of the Consumption Entry retained by the importer." That is the distinction he is drawing.

Mr. CARAMAGNO. Except that they will be identical to those enumerations on the ledgers of the importer because he is the one that submitted the entry.

Senator MELCHER. I understand that, I understand that, and I am not trying to argue this.

Mr. CARAMAGNO. I understand.

Senator MELCHER. I am just pointing out what the testimony of Customs is, which I deem to be very straightforward and understandable. They have a problem, and they do rely on the notations made by the Customs liquidator on that particular form, the Consumption Entry.

We have asked Customs to brief us on just what they are talking about before this hearing so we would be able to follow their testimony. As a result, I have been able to follow their testimony and I see their problem that it poses and the conclusion that they have drawn, which is that without Customs' own copies of these documents, Customs cannot even determine where mistakes may have been made in the drawback process by its own employees or those of the applicant. That is their testimony. It is a problem.

Mr. SPRAGUE. Sir, it is perfectly possible, though, that Customs is not aware of all the documents we have that would take the place of those notations.

Senator MELCHER. Well, Mr. Sprague, I think they are because you have testified that indeed Customs does have to invoke this doctrine of reconstruction, so they are indeed probably familiar with what Savannah has and how they keep their records in order to make such reconstruction. They are also probably familiar with the other companies that are going to testify on how they keep their own records because they have probably been involved in other instances with invoking what is called the doctrine of reconstruction.

Mr. WILLIAMS. Mr. Chairman, if I may ask one question of the chairman, or ask one favor of the chairman, if the chairman would ask Customs if, as of today, they have done anything about freezing the records, because supposedly we have some little fellow out there in GSA who is presently destroying the records, and to hear them tell it, this GSA employee is doing it completely and in chronological order.

So if that is the case, the time is also running against them on independently verifying records even as of today. What we want to know is are they doing anything about it now.

Senator MELCHER. Well, we have discussed this with Customs and I might tell you that indeed they are very concerned about what in the dickens they are going to do about all this if it is the final end result of Congress' action.

Mr. WILLIAMS. But, the answer is, they are not even freezing the documents as of today, so that come the time if this act is signed into law, we would have a situation in which they continually do not have independent verification. If this thing does not finish

until March of next year, that means that 8 years from March of next year, they would not have independent verification.

Senator MELCHER. I am lead to believe that statement is inaccurate, but I am just led to believe that. Let us get on with the other witnesses, and indeed I will look into that matter that you have pointed out.

Mr. SPRAGUE. I want to thank you for allowing us to testify, and I apologize. Mr. Williams promised me he would take 5 minutes, and obviously he ran over that.

Senator MELCHER. Well, I understand how it is and we will just proceed now with Mr. Ferrier.

STATEMENT OF ANDREW A. FERRIER, VICE PRESIDENT, REFINED SUGARS, INC., YONKERS, NY

Mr. FERRIER. Thank you, Mr. Chairman. My name is Andrew Ferrier. I am vice president of Refined Sugars, Incorporated. We are a cane refiner situated in Yonkers, New York. We are the largest single private employer in Yonkers.

I would like to thank you for this opportunity to come here and address the subcommittee on the issue of a drawback extension for sugar at this pivotal time for the cane sugar refining industry.

Currently, cane refiners need to export. If we cannot, the loss in utilization in our plants will seriously hurt the industry. In order to export, we need duty drawback. The circumstances are such, however, that by March of next year we will no longer be in a position to claim refunds on significant duties paid. We therefore have asked for an extension of the period of time allowed for claiming drawback. If we cannot get this extension, there will very likely be refinery closures in our industry.

To begin, I would like to explain the circumstances that have given rise to this need of extended drawback.

Farm legislation has imposed onerous conditions on cane refiners. Since 1981, the high domestic prices dictated by the farm bill have encouraged both high levels of domestic sugar production, as well as a rapid expansion of the corn sweetener industry, to the point where the corn sweeteners now comprise over 50 percent of the entire sweetener market.

These inroads into the sweetener market have been at the expense of cane refiners. It is our supply which has been cut to maintain a balance of supply and demand in the marketplace. As a result, eight refineries have closed since 1981 and the industry has lost one-third of its capacity. There are few of us left.

Even with such a drastic cut in the number of refineries, we are still faced with a serious overcapacity situation. The only relief to this problem has been our ability to export. Without a drawback extension, however, we will soon lose that ability.

With the domestic market as our only outlet, this industry will be faced with an overcapacity crisis such that several refinery closures may become inevitable.

Congress has recognized this. As the conferees stated in the conference report to the 1985 farm bill, there is a desire to halt the decrease in cane sugar refining capacity.

This can be done by allowing exports to continue. Unavailability of drawback, however, will prevent this occurrence. Without draw-

back, the loss of exports will cut the industry's capacity utilization by over 10 percent by mid-1988.

The timing of the drawback extension is crucial. Cane refining capacity has been reduced steadily since 1981 as the import quota has been decreased. It is possible, however, that there will be an improvement in this situation within the next few years. There are several reasons for this.

First, the continuing decrease in the sugar quota has raised questions as to its ability to control supply and demand in the marketplace. As a consequence, members from all sides of the sweetener industry are considering alternatives to make the sugar program work. Representative Huckaby has been holding hearings on this issue with members of the domestic industry; representatives of CBI and other nations have been meeting; the sweetener users have been convening; and other participants in the sugar industry have met, all with the same goal in mind, to find a way to get the sugar program to function properly in light of the large swings in production and consumption trends. Any changes made will likely improve conditions for cane refiners.

The second reason is that sugar consumption appears to be on the rise for the first time in several years. Although current rises in consumption are insufficient to counter domestic production increases, this new trend is indicating that there could be increased demand for cane sugar in the future.

Finally, both Congress and the administration have stated their concern over the plight of the cane refiners. It could be expected, therefore, that our needs will be fairly addressed in the 1990 farm bill.

Until one of these developments begins to right some of the inequities of the farm bill, however, it is essential that something be done to aid cane refiners.

An extension of drawback rights is the equitable solution to this problem, and a fair one. It provides necessary temporary relief to refiners, and it helps to compensate us for the drawback which we were unable to use for over 14 months which were discussed back in 1982 and 1983. At that time, the farm bill maintained high price supports with no compensating program in force, again, as was discussed.

The third point I would like to address, Mr. Chairman, is the financial impact to refiners of increasing the availability of drawback. It has been presumed by some that drawback is simply a check written out for refiners to put in the bank. I would like to stress that this is not so. The largest percentage of a duty refund simply goes to making a refined sugar export feasible in a world market overwhelmed by heavily subsidized EEC sugar.

For example, the EEC has gone from a net sugar importer not too many years ago to an exporter of close to one-half of all world refined sugar exports. This refined sugar is dumped on the world market with an average subsidy of over 20 cents per pound. In order to compete in the world market with such vast subsidies, U.S. refiners require duty drawback to help cover costs.

To explain the mechanics of this, I would like to cite from a study by the Washington based consulting firm of Abel, Daft &

Earley. This study, I believe, has been put into the record by Mr. Kominus. [See pages 79 to 96 for the study.]

This study examined the market relationships which prevailed in July 1987. At that time, the selling price for bagged refined sugar in the principal markets of Africa and the Middle East was approximately 9 cents per pound.

In order to meet this price, an EEC producer would obtain an export restitution from the European Commission of about 23 cents per pound. This would compensate them for the differences between the refined price for sugar f.o.b. Europe of about 8 cents per pound—that is world priced sugar—and the internal EEC price of close to 31 cents per pound. To this, they would add their 1-cent-per-pound freight cost to arrive at a delivered price to the North Africa and Middle East markets of about 9 cents a pound.

A U.S. refiner, on the other hand, could buy world price sugar in the Caribbean at 6 cents per pound in this example. The total cost delivered to the refinery, including freight, insurance, and unloading costs, would be in the area of 7.5 cents.

Add to that a refining cost of about 4 cents per pound, which represents the refining loss and the outlays for labor, energy, materials, et cetera, plus any profit margin, and the cost to ship bagged sugar to the Middle East of about 2.5 cents per pound. You arrive at a total cost for a U.S. refiner of 14 cents per pound.

In this example, therefore, the factor which makes up the difference between U.S. costs and a price competitive with the EEC is duty drawback of 5 cents per pound.

To quote the study, "In this example, the 5-cent refund of previously paid duties and fees makes up the difference between what the refiner needs to do business and what the market is offering him. Note that the refiner does not just pocket this 5 cents. The refiner's profit is whatever is left of the 4-cent refining margin after he has paid all his costs—labor, utilities, materials, financing, refining loss, equipment repair, et cetera. This is typically a fraction of a cent."

As this example shows, the United States can be competitive with the EEC, although drawback is essential in order to cover incremental costs. Without that drawback, the U.S. ceases to be an exporter. This would not only decrease capacity utilization in the cane refining industry, but would also mean the loss of a nearby world priced raw sugar market for our Caribbean and Latin American neighbors.

Finally, I would like to address the issue of drawback availability and recordkeeping. I think Messrs. Sprague and Williams covered it adequately. I will not go into it in any further length other than to say that, first of all, if the drawback extension were to take effect on February 1, 1988, Refined Sugars, Incorporated, would gain access to approximately $65 million of drawback. Much of that is at uneconomically low levels, however, and we estimate, given the current relationship between world raw and refined prices, that at the outside RSI would be in a position to use $49 million over the 3½ years to October 1991. This number is, of course, subject to the availability of refining capacity.

As to the question of recordkeeping, the import and export of sugar involves extensive documentation, much of it, as Mr. Wil-

liams showed, is specific Customs forms. Copies of all relevant documents are kept, along with elaborate written backup.

The written testimony which we have submitted has examples of documents used by Refined Sugars, Incorporated. These documents cover both the importation of raw sugar and the export of refined sugar.

They contain all the relevant information required to prove the original duty paid on raw sugar entered into the United States, the date of entry, the date of manufacture, and the date and quantity exported. Many of these documents are actual Customs forms, as has been pointed out. Others are Refined Sugars, Incorporated, internal documents, or are generated by unrelated third parties. In all, they represent, in our opinion, clear proof of duty paid on raw sugar entered and manufactured by our company to which we would be entitled to receive drawback. We believe that they would be more than adequate to satisfy Customs' verification requirements.

In conclusion, I would like to thank the subcommittee once again for this opportunity to elaborate on the impact of a drawback extension for sugar.

This is a vital piece of legislation for our industry. Congress, in its establishment of the current sugar program, has been particularly hard on cane refiners. We now leave it up to Congress to remedy this situation. We need help to survive over this most difficult period, until such time as the circumstances become more favorable to the cane refining industry.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Ferrier, with attachments follow:]

Testimony of Andrew A. Ferrier
Before the Senate Agriculture Committee
November 16, 1987

Mr. Chairman & distinguished members of this panel, I thank you for the opportunity to come here and address this subcommittee on the issue of a drawback extension for sugar, at this pivotal time for the cane sugar refining industry.

Cane refiners need to export. If we cannot, the loss in utilization in our plants will seriously hurt the industry. In order to export, we need duty drawback. The circumstances are such, however, that by March of next year we will no longer be in a position to claim refunds on significant duties paid. We therefore have asked for an extension of the period of time allowed for claiming drawback. If we cannot get this extension, there will very likely be refinery closures in our industry.

To begin, I would like to explain the circumstances that have given rise to this need for extended drawback.

Farm legislation has imposed onerous conditions on cane refiners. Since 1981, the high domestic prices dictated by the farm bill have encouraged both high levels of domestic sugar production as well as a rapid expansion of the corn sweetener industry, to the point where corn sweeteners now comprise over 50% of the entire sweetener market.

These inroads into the sweetener market have been at the expense of the cane refiners. It is our supply which has been cut to maintain a balance of supply and demand in the marketplace. As a result, eight refineries have closed since 1981 and the industry has lost one-third of its capacity. There are few of us left.

Even with such a drastic cut in the number of refineries, we are still faced with a serious overcapacity situation. The only relief to this problem has been our ability to export. Without a drawback extension, however, we will soon lose that ability.

With the domestic market as our only outlet, this industry will be faced with an overcapacity crisis such that several refinery closures may become inevitable.

Congress has recognized this. As the conferees stated in the conference report to the 1985 farm bill: there is a desire to halt the decrease in cane sugar refining capacity.

This can be done by allowing exports to continue. Unavailability of drawback, however, will prevent this occurance. Without drawback, the loss of exports will cut the industry's capacity utilization by over 10% by mid 1988.

The timing of the drawback extension is crucial. Cane refining capacity has been reduced steadily since 1981 as the import quota has been decreased. It is possible, however, that there will be an improvement in this situation within the next few years. There are several reasons for this.

Firstly, the continuing decrease in the sugar quota has raised questions as to its ability to control supply and demand in the market. As a consequence, members from all sides of the sweetener industry are considering alternatives to make the sugar program work. Representative Huckaby has been holding hearings on this issue with members of the domestic industry; representatives of CBI and other nations have been meeting; the sweetener users have been convening; and other participants in the sugar industry have met all with the same goal in mind -- to find a way to get the sugar program to function properly in light of the large swings in production and consumption trends. Any changes made will likely improve conditions for cane refiners.

The second reason is that sugar consumption appears to be on the rise for the first time in several years. Although current rises in consumption are insufficient to counter domestic production increases, this new trend is indicating that there could be increased demand for cane sugar in the future.

Finally, both Congress and the Administration have stated their concern over the plight of the cane refiners. It could be expected, therefore, that our needs will be fairly addressed in the 1990 farm bill.

Until one of these developments begins to right some of the inequities of the farm bill, however, it is essential that something be done to aid cane refiners.

An extension of drawback rights is the equitable solution to this problem, and a fair one. It provides the necessary temporary relief to refiners, and it helps to compensate us for the drawback which we were unable to use for over 14 months in 1982 and 1983. At that time the farm bill maintained high price supports with no compensating program in force to allow for the re-export of lower-priced world sugar.

The third point I would like to address is the financial impact to refiners of increasing the availability of drawback. It has been presumed by some that drawback is simply a check written out for refiners to put in the bank. I would like to stress that this is not so. The largest percentage of a duty refund simply goes to making a refined sugar export feasible in a world market overwhelmed by heavily subsidized EEC sugar.

For example, the EEC has gone from a net sugar importer not too many years ago to an exporter of close to one-half of all world refined sugar exports. This refined sugar is dumped on the world market with an average subsidy of over twenty cents per pound.

U.S. Refiners, on the other hand, need a fraction of that amount to export competitively. This is best explained by the example in Appendix One, which is an extract from a study by the Washington-based consulting firm of Abel, Daft & Earley.

As that example shows, the US can be competitive with the EEC, although drawback is essential in order to cover incremental costs. Without that drawback, the US ceases to be an exporter. This would not only decrease capacity utilization in the cane refining industry, but would also mean the loss of a nearby world priced raw sugar market for our Caribbean and Latin American neighbors.

Finally, I would like to adress the issue of drawback availability and record keeping. If the drawback extension were to take effect on February 1, 1988, Refined Sugars would gain access to approximately $65 million worth of drawback. Much of that is at uneconomically low levels, however, and we estimate that at the outside RSI would be in a position to use $49 million over the three and one half years to October 1991. This number is, of course, subject to the availability of refining capacity.

As to the question of record keeping, the import and export of sugar involves extensive documentation, much of it specific customs forms. Copies of all relevant documents are kept, along with elaborate internal backup.

Appendix Two contains two examples of documents used by Refined Sugars Inc. These documents cover both the importation of raw sugar and the export of refined sugar.

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They contain all the relevant information required to prove the original duty paid on raw sugar entered into the U.S., the date of entry, the date of manufacture, and the date and quantity exported. Many of these documents are actual customs forms. Others are Refined Sugars Inc. internal documents or are generated by unrelated third parties. In all, they represent clear proof of duty paid on raw sugar entered and manufactured by Refined Sugars Inc. to which we would be entitled to receive drawback. We believe that they would be more than adequate to satisfy customs' verfication requirements.

In conclusion, I would like to thank the committee once again for this opportunity to elaborate on the impact of a drawback extension for sugar.

This is a vital piece of legislation for our industry. Congress, in its establishment of the current sugar program, has been particularly hard on cane refiners. We now leave it up to Congress to remedy this situation. We need help to survive over this most difficult period, until such time as the circumstances become more favorable to the cane refining industry.

Thank you.

APPENDIX ONE

Extract from "The Economic Impact of Reinstating Expired Rights to Drawback of Customs Duties on Sugar" by Abel, Daft & Earley

"Items such as raw sugar on which duties or fees must be paid at the time of importation may also be processed and exported. When the export takes place, drawback, a refund amounting to 99 percent of previously paid duties, is available to the importer of record - usually the refiner. Manufacturers have five years to export their product and claim the drawback, but processing must occur within three years of importing the raw material. Thus, for refined sugar, which is expensive to store and deteriorates over time, the practical result is to place a three year limit on the time available to use drawback.

The best way to explain how drawback works and the role it plays is through an example. Figure 1 shows, in round numbers, the market relationships that prevailed in July, 1987. The left side of the figure shows that a U.S. refiner could buy raw sugar on the world market at 6 cents per pound, loaded on a ship in a Caribbean port. Freight, insurance and unloading expenses total about 1.5 cents. The 4-cent refining cost covers the refining loss and outlays for labor, energy, materials, finance, etc., plus any profit margin. (The refining loss is the cost stemming from the fact that it takes 1.087 pounds of raw sugar to make one pound of refined sugar -- in this example a cost of about half a cent.)

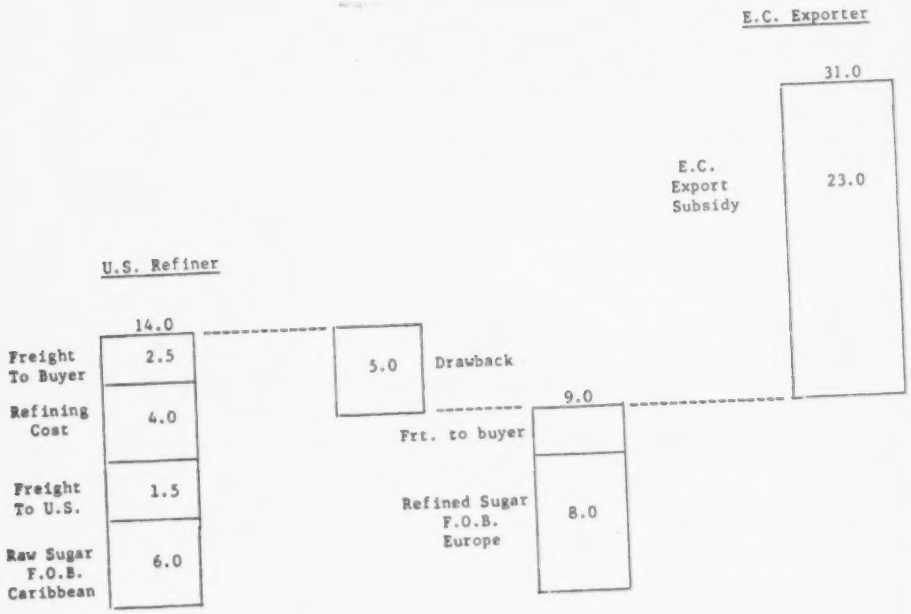
Finally, the cost of shipping the bagged refined sugar to markets in Africa or the Middle East is approximately 2.5 cents. Thus the refiner must recover a total of 14 cents per pound.

Unfortunately the world price for refined sugar loaded on board a ship in a European port is only 8 cents and the cost of freight to Africa or the Middle East is only one cent. So an EC exporter can deliver refined sugar to the importing country for nine cents. Of course he can only do this because he has received an export restitution of 23 cents from the European Commission to offset the difference between the high price of refined sugar within the Community and the low world price.

As is obvious in the figure, what drawback does is permit the U.S. refiner to be competitive with the EC and other exporters. In this example, the 5-cent refund of previously paid duties and fees makes up the difference between what the refiner needs to do the business and what the market is offering him. Note that the refiner does not just pocket this five cents. The refiner's profit is whatever is left of the 4-cent refining margin after he has paid all his costs--labor, utilities, materials, financing, refining loss, equipment repair, etc. This is typically a fraction of a cent.
Obviously many of the components of this calculation will vary over time and with circumstances. In particular, the premium over raw prices commanded by refined sugar, and the relative freight costs from exporting countries to importing countries can differ. But the basic principle remains the same."

Figure 1

THE ROLE OF DRAWBACK
(values in cents per pound)



APPENDIX TWO
Document Summary

Example 1 is the "Panagis C" which arrived at our Refinery in September 1978 and Exhibits A through J are representative samples of documentation which could be made available to U.S. Customs. No claims have been made against this vessel and the drawback available to be claimed would be $1,537,473.73 (99% x $1,553,003.77).

Example 2 is the "De Zhou" which arrived in March 1982 and Exhibits K through M are documents which could be given to support claims already made against this vessel.

More specifically, the documents provide the following information:

Exhibits A and B provide proof of origin and shipped weight. This shipped weight will agree with the U.S. Customs consumption entry, Exhibit C, which also states the date of entry. Using the country of origin and date of entry, the rate of duty and fee could be verified by U.S. Customs by checking against rates prevailing at the time of entry.

Exhibits D and E are statements filed with U.S. Customs which detail the sugar which is discharged from each vessel and manufactured during each month. The total amount manufactured by vessel can be verified by checking quantities reported by independent weighers, Exhibits F and G.

Exhibit H is a U.S. Customs Courtesy Notice which evidences proof of the total duty and fee paid. This can be cross-referenced to the calculation of duty - Exhibit I and the outturn weight - Exhibits F and G. Exhibit I can also be cross-referenced to the consumption entry for proof of rates of duty and fee.

Exhibit J can be cross-referenced to Exhibit I, F, and G for total weight.

Exhibit K is the same document as Exhibit L but for a different vessel. This statement calculates a reducing drawback availability each time a claim is made. Exhibits L and M are examples of one claim and its payment. Details are available for all claims since 1978 and a full list could be made available.

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EXAMPLE 1 PANAGIS C CUSTOMS ENTRY #79-107101 ARRIVED SEPTEMBER 1978

Exhibit A Certificate of Origin

This document is supplied by the shipper and provides proof of origin and therefore, whether sugar is dutiable or duty free in accordance with the U.S. Customs tariffs applicable at that time.

Exhibit B Bill of Lading

This document is supplied by the shipper and provides proof of weight and origin.

Exhibit C Consumption Entry #107101

This document is the U.S. Customs form detailing payment of original duty and fee. Basis for payment is shipped weight per bill of lading at rate applicable at the time of entry.

Consumption entry also includes date of entry which can be cross-referenced to prevailing duty and fee rates.

Exhibit D/E Abstract CM #02879 October 1978
November 1978

Copies of abstracts filed with U.S. Customs in August 1979 evidencing receipt and manufacture of designated sugar.

October	1978	27,192,795	Lbs.
November	1978	722,605	Lbs.
		27,915,400	Lbs. Manufactured

Exhibit F/G Outturn Weight Certificates International Weighers
North of Hatteras Weighing

These two documents are independent proofs of outturn weight of vessel. Weight can be cross-referenced to final duty calculations (Exhibit I).

Exhibt H Courtesy Notice Dated 5/4/79

This is evidence of U.S. Customs liquidation of entry #79-107101 in the amount of $1,553,003.77.

Original payment of $1,543,500 is also evidenced and can be cross-referenced to original consumption entry (Exhibit C).

Exhibit I Duty Worksheet

Internal work sheet calculating final customs duty liquidation of $1,553,003.77 per the Courtesy Notice (Exhibit H).
EAMPLE 1 (Con't.)

Exhibit J Drawback Availability Summary

A summary of our internal drawback availability indicating the total quantity available for drawback. Claims would be entered on this statement and the quantity available would be reduced accordingly.

You will note that no claims have been filed on the Panagis C.

CUSTOMS ENTRY #82-258493

EXAMPLE 2 DE ZHOU ARRIVED 3/23/82

The documentation supporting this entry would be similar to Example 1, but because claims have been made against the vessel, the drawback availability statement would be updated as follows:

Exhibit K Drawback Availability

As claims are made, they are entered on this statement and the quantity of sugar available for drawback is reduced. Individual files are opened for each vessel.

Exhibit L Our Claim #125 Customs #86/734475-0

This is an example of a claim submitted to U.S. Customs Drawback Division (including copies of individual export documentation supporting the claim). The raw sugar quantity exported appears on page 1 and can be cross-referenced to the drawback availability statement (Exhibit K).

Exhibit M

The above mentioned claim was paid under accelerated drawback on 3/31/86. A copy of the U.S. Treasury check #794003969 is attached.

The amount paid of $2,380.59 can be cross-referenced to our own claim (Exhibit L).

Exhibit A

THAI CHAMBER OF COMMERCE
BANGKOK-THAILAND

Original

№ 3887

CERTIFICATE OF ORIGIN

By the request of THE THAI SUGAR TRADING CORPORATION LIMITED.
the Consignee of Goods is given by the Chamber of Commerce to issue the shipment of
GOODS AS FOLLOWS:- details of which are given hereunder.

MARKS	QUANTITY	DESCRIPTIONS	WEIGHT
C MARK (IN BOLD)		RECEIVED LOT RAW SUGAR IN BULK, OF THAI AVERAGE QUALITY WITH A POLARIZATION MINIMUM 99° DEGREES AS PER TERMS OF SHIPMENT.	12,500 M.T. MIN. MAX CS 12,750 M.T.
		NOTIFY: PHILLIP BROTHERS OCEANIC 1221 AVE. OF AMERICAS NEW YORK NY 10020	

Shipper: THE THAI SUGAR TRADING CORPORATION LIMITED.
Consignee: TO ORDER OF SHIPPER.
Vessel: PANAGIA C Loading on or about
Destination: SAFE USA PORT (S)

On the basis of mutual mutual aid, this Chamber of Commerce certifies that all the goods mentioned above were wholly produced in THAILAND or otherwise stated.

Exhibit B

BILL OF LADING

UNIFORM BILL OF LADING 1946
approved by
The Documentary Council of The Baltic and International Maritime Conference.
To be used with Charter-Parties.
Code Name: Congenbil.

TRIPICATE

B/L No. 1

Shipped at BANGKOK/KOHSICHANG in apparent good order and condition by
THE THAI SUGAR TRADING CORP., LTD.
of BANGKOK on board the good Vessel called the M/V "PANAGIS C."
for carriage to SAFE USA PORT(S)
or so near thereto as she may safely get, the following goods:

PARTICULARS FURNISHED BY SHIPPERS

SHIPPING MARKS		SAID TO WEIGH
NO MARK IN BULK	1(ONE)LOT THAILAND CANE RAW SUGAR IN BULK, OF FAIR AVERAGE QUALITY WITH A POLARIZATION MINIMUM OF 96 DEGREES AT TIME OF SHIPMENT.	12,500 L/T. MIN/MAX

"ON BOARD 20/8/78"

" ALL TERMS AND CONDITIONS SUBJECT TO C/P DATED AT LONDON ON JULY 31,1978 "

" FREIGHT PAYABLE AS PER C/P "

BANK OF AYUDHYA, LTD.
HEAD OFFICE
PCDC No 0127/78
BANGKOK, THAILAND

(of which - on deck at Shippers' risk; the Carrier not responsible for loss or damage howsoever arising) which are to be delivered in the like good order and condition at the aforesaid Port of SAFE USA PORT(S) unto

CONSIGNEE : TO ORDER OF SHIPPER.
NOTIFY : PHILLIP BROTHERS OCEANIC 1221 AVE. OF AMERICAS NEW YORK NY 10020.

or his or their Assign(s), he or they paying freight at the rate of AS ARRANGED
(say - per -) as per Charter-Party, dated 31/7/78
All the terms, conditions, liabilities, and exceptions of the Charter-Party are herewith incorporated.

This Bill of Lading shall have effect subject to the provisions of any legislation relating to the carriage of goods by sea which incorporates the rules relating to Bill of Lading contained in the International Convention, dated Brussels 25th August, 1924 and which is compulsorily applicable to the contract of carriage herein contained. Such legislation shall be deemed to be incorporated herein, but nothing herein contained shall be deemed a surrender by the Carrier of any of its rights or immunities or an increase of any of its responsibilities or liabilities thereunder. If any term of this Bill of Lading be repugnant to any extent to any legislation by this clause incorporated, such term shall to said extent but no further. Nothing in this Bill of Lading shall operate to limit or deprive the Carrier of any statutory protection or exemption from, or limitation of, liability

Freight Advance. Received on account of freight

Weight, measure, quality, quantity, condition, contents and value unknown.
IN WITNESS whereof the Master or Agent of the said Vessel has signed THREE Bills of Lading all of this tenor and date, any one of which being accomplished the others to be void.
BANGKOK, the 20TH AUGUST, 19 78

For the Master
For T[illegible] & C[illegible] (THAILAND) LTD.

Exhibit C

FREDERIC HENIES, JR., INC.
ONE WORLD TRADE CENTER - SUITE 1159, NEW YORK, N.Y. 10048 REF. 20047
BOX 79

CONSUMPTION ENTRY
UNITED STATES CUSTOMS SERVICE

RECORD COPY ☐
CASHIER'S COPY ☐

This Space For Customs Use Only
B/LOAD AND FILE NO. | M.O.T. | MANIFEST NO.

Form approved. O.M.B. No. 48-R0017.

This Space For Customs Use Only
ENTRY NO. AND DATE 10710 1

FOREIGN PORT OF LADING | U.S. PORT OF UNLADING | Dist. and Port Code 10 01 | Port of Entry Name NEW YORK | TO ENT. 11/30/79

Importer of Record (Name and Address) REFINED SYRUPS&SUGARS INC. 1FEDERAL ST. YONKERS,NY 10701

For Account of (Name and Address) SAME

Importing Vessel (Name) or Carrier	B/L or AWB No.	Port of Lading	I.T. No. and Date
PARAGIS C(GREEK)	1	BANGKOK	
Country of Exportation	Date of Exportation	Type and Date of Invoice	I.T. From (Port)
THAILAND	8/20/79	SCI @ 8/28/79	
U.S. Port of Unlading	Date of Importation	Location of Goods—G.O. No.	I.T. Carrier (Delivered)
NEW YORK	9/27/79	YONKERS,NY	

MARKS & NUMBERS OF PACKAGES; COUNTRY OF ORIGIN OF MERCHANDISE (1)	DESCRIPTION OF MERCHANDISE IN TERMS OF T.S.U.S.A. ANNO. NUMBER AND KIND OF PACKAGES (2)	GROSS WEIGHT IN POUNDS (2a)	NET QUANTITY IN T.S.U.S.A. ANN. UNITS (2b)	ENTERED VALUE IN U.S. DOLLARS (3)	T.S.U.S.A. ANNO. REPORTING NO. (4)	TARIFF OR T.S.U.S. RATE (5)	DUTY AND I.R. TAX (6) DOLLARS	CTS.
THAILAND RAW CENTRIFUGAL SUGAR IN BULK FOR FURTHER PROCESSING					NOT RELATED			
12500 L.T.	28140000.TONS 28000000#		140000.TONS 28000000 LBS.	2602236 PGTT CUCS EPLY	155.2045 2602236 282505 2602236	2.8125	787500	00
		ACR.TAX	28000000 LBS.		956.15	2.7¢	756000	00
							1543500	00
					& 1393507.50 @1.8674=2602235.91			

c/o THAILAND

MISSING DOCUMENTS	THIS SPACE FOR CUSTOMS USE ONLY
TRANSACTIONAL LETTER FRM FROM TATE & (JLE TO REFINED SYRUPS&SUGARS	

I declare that I am the ☐ owner ☐ owner's agent and that the actual owner for customs purposes is shown above, or ☐ consignee or agent of the consignee. I further declare that the merchandise ☐ was or ☐ was not obtained in pursuance of a purchase or agreement to purchase. I also include in my declaration all the statements in the declaration on the back of this entry.

10/2/79
REFINED SYRUPS&SUGARS INC ..... DATE
FREDERIC HENIES JR.ESQ.ATTY. ..... (Signature)
..... (Address)

☐ (1) Principal
☐ Member of the firm
☐ ..... of the corporation
☐ (3) Authorized agent (Title)

CUSTOMS FORM 7501

Exhibit D

MONTH OF OCTOBER - 1978 — Yonkers, New York — Date August 27, 1979

Abstract from the refinery records of Refined Syrups & Sugars, Inc. located at Yonkers, New York, covering raw sugar melted and hard refined sugar and syrups and liquid sugar produced therefrom during the period from October 1st through October 31, 1979.

Note - The refinery operated 19 days during the period covered by this Abstract.
- All packages produced during this period have been marked with date of production and Abstract number.
- Raw Sugar imported or with drawn by Refined Syrups & Sugars, Inc., Yonkers, New York.

Refiner's Lot No.	Import Entry Number	Packages	Importation Date	Vessel	Origin (Country)	Received by Refinery	Date of Melt	Pounds	Percent Sucrose	Pounds Sucrose
		Bulk		~~Finnish~~ Wasa	Australia		October 1st	27,126,661	.986376	26,757,017
	107101	Bulk	9/29/78	Panagis C	Thailand	9/29/78	thru	27,192,795	.97015	26,381,128
							October 31st			
								54,319,456		53,138,215

REFINED SUGAR PRODUCTION RECORD

Refinery Serial Production Number	Boiling Date	Hard or Soft Refined	Net Weight	Polarization	Pounds Sucrose
574	October 1st thru October 31st, 1978	Hard	20,117,345	100%	20,117.345

BOILING DATE — LIQUID SUGAR PRODUCTION RECORD — REFINERY SERIAL PRODUCTION NO.

Grade of Liquid	Gallons	Total Weight	Brix	Lb. Solids	Pol. Test Solids	Lb. Sucrose
LIQUID SUGAR (UNINVERTED):						
#11 Liquid Sucrose						
#12 Industrial Sucrose	1,774,129	19,692,842	67.44	13,280,853	99.80	13,254,291
#130 Amber Sucrose	1,029,438	11,421,621	67.34	7,691,320	98.91	7,682,936
LIQUID SUGAR (INVERTED):						
#121 Liquid Invert						
#122 Industrial Invert	1,210,763	14,026,696	76.55	10,737,436	99.80	10,715,961
SYRUP PRODUCTION RECORD:						
#14 Refinery Syrup	32,465	382,441	80.20	306,718	87.31	267,795
#00 Blackstrap	180,253	2,134,198	81.20	1,732,969	52.45	908,942

Yonkers, New York

August 27, 1979

Month OCTOBER - 1978

RECAPITULATION

GRADE	LB. SUCROSE
REFINED SUGAR PRODUCED	20,117,345
LIQUID SUGAR PRODUCED	31,653,188
SYRUP PRODUCED	1,176,737
TOTAL PRODUCED	52,947,270

$$\frac{52{,}947{,}270}{.999109}\ ** = 52{,}994{,}488$$

52,994,488 LB. SUCROSE USED IN PRODUCTION
52,947,270 LB. SUCROSE CONTAINED IN PRODUCTION
47,218 LB. SUCROSE LOST IN PRODUCTION

** The Sucrose Used is determined by using annual sucrose loss factor of the year 1976 , as per our amendment to sworn statement filed on February 24, 1956, and amended May 16, 1956.

I, _____, Customs Attorney of Refined Syrups & Sugars, Inc., Located at Yonkers, New York do solemnly and truly declare that each of the statements in the foregoing Abstract is true to the best of my knowledge and belief and can be verified by the refinery records which have been kept in accordance with T.D. 44291 and our sworn statement of December 15, 1939; in reply to which we have received a letter from the Commissioner of Customs dated January 16, 1940, bearing number 731.1 These records are at all times open to the inspection of the Officers of the Customs.

_____

ABSTRACT NO. 10-78 Yonkers, New York Date August 27, 1979

Month OCTOBER - 1978

Supplemental Statement of Market Value for the Period October 1st through October 31, 1978 covered by Abstract No. 10-78. Sugar and Liquid Sugar prices are based on the published price announcement of See Attachment which was in effect for the full calendar month of October, 1978. Sales of syrup which were in drums and barrels have been excluded from our Syrup Sales and only Spot Sales of Syrup (delivered within not more than 16 days after sales in tank trucks, tank cars, and tank barges) during Abstract period are shown below.

		LB. SOLID SOLD	PUBLISHED PRICE ANNOUNCEMENT OF	NET SALES VALUE	AVERAGE NET UNIT SELLING PRICE LESS 2% DISCOUNT
	Hard Refined Sugar		See Attachment		.225621
#11	Liquid Sucrose		"		.215947
#12	Industrial Sucrose		"		.214967
#121	Liquid Invert		"		.215947
#122	Industrial Invert		"		.214967
#130	Amber Sucrose		"		.213007
#14	Refinery Syrups	289,526		60,838.00	.210130
#00	Blackstrap	1,910,922		71,682.46	.037511

I, F A Hoerip, Customs Attorney of Refined Syrups & Sugars, Inc., do solemnly and truly declare that the values are true to the best of my knowledge and belief and can be verified by our records.

F A Hoerip

Yonkers, New York — August 27, 1979

Month OCTOBER - 1978

		Pounds	Polarization or Clerget (Degrees)	Market Value Per Pound	Allowance Per Pound	(Lbs) Total Sucrose Allowance
	HARD REFINED SUGAR	20,117,345	100.	.225621	1.042072	20,963,722
		Lb. Solids				
#11	LIQUID SUCROSE	2,781,910	99.80	.215947	.997390	2,774,649
#12	INDUSTRIAL SUCROSE	10,498,943	99.80	.214967	.992864	10,424,023
#121	LIQUID INVERT	1,444,416	99.80	.215947	.997390	1,440,646
#122	INDUSTRIAL INVERT	9,293,020	99.80	.214967	.992864	9,226,705
#130	AMBER SUCROSE	7,691,320	98.91	.213007	.983812	7,566,813
#14	REFINERY SYRUP	306,718	87.31	.210130	.970524	297,677
#00	BLACKSTRAP	1,732,969	52.45	.037511	.173521	300,239
						52,994,474

Sucrose Used (52,994,488) divided by market value (11,473,935) = 4.618684 which constitutes the pounds sucrose per $1.00 Market Value.

Sucrose Used determined by using annual average sucrose-loss factor for the year 1976 as per our amendment to sworn statement filed on February 24, 1956 and approved May 16, 1956.

REFINED SYRUPS & SUGARS

YONKERS, NEW YORK

MONTH October 1978

Published Price Announcements	No. of Days	Gran.	#11	#12	#121	#122	#130	#14
October 1, 1978	3	22.50	21.90	21.80	21.90	21.80	21.60	21.30
October 4, 1978	7	22.80	22.20	22.10	22.20	22.10	21.90	21.60
October 11, 1978	6	23.05	22.45	22.35	22.45	22.35	22.15	21.85
October 17, 1978	1	22.80	22.20	22.10	22.20	22.10	21.90	21.60
October 18, 1978	2	22.60	22.00	21.90	22.00	21.90	21.70	21.40
October 20, 1978	4	22.40	21.80	21.70	21.80	21.70	21.50	21.20
October 24, 1978	2	21.90	21.30	21.20	21.30	21.20	21.00	20.70
October 26, 1978	4	22.40	21.80	21.70	21.80	21.70	21.50	21.20
October 30, 1978	2	22.65	22.05	21.95	22.05	21.95	21.75	21.45
Totals	31							
Less 2% Discount		.225621	.215947	.214967	.215947	.214967	.2130077	.210130

Exhibit E

Yonkers, New York

Date August 27, 1979

TH OF NOVEMBER - 1978

Abstract from the refinery records of Refined Syrups & Sugars, Inc. located at Yonkers, New York, covering raw sugar melted and hard refined sugar and syrups and liquid sugar produced therefrom during the period from November 1st through November 30th, 1979.

Note - The refinery operated 11-1/3 days during the period covered by this Abstract.
- All packages produced during this period have been marked with date of production and Abstract number.
- Raw Sugar imported or with drawn by Refined Syrups & Sugars, Inc., Yonkers, New York.

Refiner's Lot No.	Import Entry Number	Packages	Importation Date	Vessel	Origin (Country)	Received by Refinery	Date of Melt	Pounds	Percent Sucrose	Pounds Sucrose
	119602	Bulk	10/10/78	Athens Sky	El Salvador	10/12/78	11/1/78	11,264,900	.98327	11,076,438
	122901	Bulk	10/11/78	August Peters	Malaui	10/16/78	thru	4,562,040	.98569	4,496,757
	107101	Bulk	9/29/78	Panagis C	Thailand	9/29/78	11/30/78	722,605	.97015	701,035
	117851	Bulk	10/10/78	Silver Wave	Romania	10/17/78	11/30/78	16,111,226	.99755	16,071,758
								32,660,771		32,345,983

REFINED SUGAR PRODUCTION RECORD

Refinery Serial Production Number	Boiling Date	Hard or Soft Refined	Net Weight	Polarization	Pounds Sucrose
575	November 1st thru November 31st, 1978	Hard	17,365,002	100%	17,365,002

LIQUID SUGAR PRODUCTION RECORD

BOILING DATE

REFINERY SERIAL PRODUCTION NO.

Grade of Liquid	Gallons	Total Weight	Brix	Lb. Solids	Pol. Test Solids	Lb. Sucrose
LIQUID SUGAR (UNINVERTED):						
#11 Liquid Sucrose						
#12 Industrial Sucrose	1,137,776	12,635,013	67.56	8,536,215	99.80	8,519,142
#130 Amber Sucrose	295,495	3,281,629	67.57	2,223,534	99.18	2,205,301
LIQUID SUGAR (INVERTED):						
#121 Liquid Invert						
#122 Industrial Invert	573,573	6.653,450	76.83	5,111,846	99.80	5,101,622
SYRUP PRODUCTION RECORD:						
#14 Refinery Syrup	25,036	296,431	81.20	240,702	87.73	211,167
#00 Blackstrap	69,658	829,633	82.40	683,618	49.81	340,510

Page 1 of 4

Yonkers, New York — August 27, 1979

Month NOVEMBER - 1978

RECAPITULATION

GRADE	LB. SUCROSE
REFINED SUGAR PRODUCED	17,365,002
LIQUID SUGAR PRODUCED	15,826,065
SYRUP PRODUCED	551,677
TOTAL PRODUCED	33,742,744

$$\frac{33,742,744}{.999109}\ ** = 33,772,835$$ LB. SUCROSE USED IN PRODUCTION

33,742,744 LB. SUCROSE CONTAINED IN PRODUCTION

30,091 LB. SUCROSE LOST IN PRODUCTION

** The Sucrose Used is determined by using annual sucrose loss factor of the year 1976 , as per our amendment to sworn statement filed on February 24, 1956, and amended May 16, 1956.

I, E. F. Hoban, Customs Attorney of Refined Syrups & Sugars, Inc., Located at Yonkers, New York do solemnly and truly declare that each of the statements in the foregoing Abstract is true to the best of my knowledge and belief and can be verified by the refinery records which have been kept in accordance with T.D. 44291 and our sworn statement of December 15, 1939; in reply to which we have received a letter from the Commissioner of Customs dated January 16, 1940, bearing number 731.1 These records are at all times open to the inspection of the Officers of the Customs.

E. F. Hoban

ABSTRACT NO. 11-78 Yonkers, New York Date August 27, 1979

Month NOVEMBER - 1978

Supplemental Statement of Market Value for the Period November 1st through November 30th, 1978 covered by Abstract No. 11-78.
Sugar and Liquid Sugar prices are based on the published price announcement of See Attachment which was in effect for the full calendar month of November, 1978. Sales of syrup which were in drums and barrels have been excluded from our Syrup Sales and only Spot Sales of Syrup (delivered within not more than 16 days after sales in tank trucks, tank cars, and tank barges) during Abstract period are shown below.

		PUBLISHED PRICE ANNOUNCEMENT OF	AVERAGE NET UNIT SELLING PRICE LESS 2% DISCOUNT
	Hard Refined Sugar	See Attachment	.215730
#11	Liquid Sucrose	"	.210504
#12	Industrial Sucrose	"	.2088706
#121	Liquid Invert	"	.210504
#122	Industrial Invert	"	.2088706
#130	Amber Sucrose	"	.206910

		LB. SOLID SOLD	NET SALES VALUE	
#14	Refinery Syrups	138,697	28,290.00	.203970
#00	Blackstrap	793,548	33,497.52	.042212

I, C. F. Vogel, Customs Attorney of Refined Syrups & Sugars, Inc., do solemnly and truly declare that the values are true to the best of my knowledge and belief and can be verified by our records.

C. F. Vogel

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Yonkers, New York — August 27, 1979

Month NOVEMBER - 1978

		Pounds	Polarization or Clerget (Degrees)	Market Value Per Pound	Allowance Per Pound	(Lbs) Total Sucrose Allowance
	HARD REFINED SUGAR	17,365,002	100.	.215730	1.020413	17,719,473
		Lb. Solids				
#11	LIQUID SUCROSE	2,048,332	99.80	.210504	.995693	2,039,509
#12	INDUSTRIAL SUCROSE	6,487,883	99.80	.208870	.987964	6,409,794
#121	LIQUID INVERT	1,147,232	99.80	.210504	.995693	1,142,290
#122	INDUSTRIAL INVERT	3,964,614	99.80	.208870	.987964	3,916.895
#130	AMBER SUCROSE	2,223,534	99.18	.206910	.978694	2,176,159
#14	REFINERY SYRUP	240,702	87.73	.203970	.964787	232,226
#80	BLACKSTRAP	683,618	49.81	.042212	.199664	136,493
						33,772,839

Sucrose Used (33,772,835) divided by market value (7,140,063) = 4.730047 which constitutes the pounds sucrose per $1.00 Market Value.

Sucrose Used determined by using annual average sucrose-loss factor for the year 1976 as per our amendment to sworn statement filed on February 24, 1956 and appro

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REFINED SYRUPS & SUGARS

YONKERS, NEW YORK

MONTH November 1978

Published Price Announcements	No. of Days	Gran.	#11	#12	#121	#122	#130	#14
November 1, 1978	8	22.30	21.70	21.60	21.70	21.60	21.40	21.10
November 9, 1978	7	21.80	21.20	21.10	21.20	21.10	20.90	20.60
November 16, 1978	12	22.00	21.40	21.30	21.40	21.30	21.10	20.80
November 28, 1978	3	21.80	21.20	21.10	21.20	21.10	20.90	20.60
Totals	30							
Less 2% Discount		.215730	.210504	.2088706	.210504	.2088706	.2069106	.2039706

Exhibit F

M/S "PANAGIS C"

CAPTAIN	NIK. PAPAVLACHOS	CHIEF OFFICER	E. PAROUDIS
BUILT	OSLO, NORWAY	YEAR	1959
FLAG	GREEK	HOME PORT	PIRAEUS
GROSS TONS	8995.22	NET TONS	5932.74
LENGTH	518'	BREADTH	64'
LOADING PORT	SEE BELOW *	METHOD	*
MANIFESTED	28,000,000	TOTAL HOURS	39 hrs. 00 min.
DELIVERED	27,915,400	DOWN TIME	5 32
OUT-TURN	84,600 short	WORKING HOURS	33 28

DISCHARGE RATE PER [redacted] HOUR= 417.06276 s/tons

INFORMATION FROM SHIP'S LOG GIVEN BY CAPT. PAPAVLACHOS

Arr. Ambrose	9-29-78 @ 0630	Arr. Draft:	28' 7" fwd.
Pilot on Board	" @ 0645		28' 6" aft
Docked	" @ 1045	T.P.I.	62.09 L/T
Started	" @ 1130		
Finished	10-7-78 @ 1600		

**One crane only. Second crane could not start until crew made #1 hatch available for discharge. This was not until 1315.

GENERAL COMMENTS: 2 loading ports...KOHSICHANG where ship was at anchor & cargo loaded by ships gear from barges...BANGKOK where ship was at dockside & cargo cut & dumped from barge...ship is a 6 hatch general cargo carrier with a double tween deck in #1 and a single tween deck in all other hatches...her bridge house is aft of #3 & her engine room is aft of #6...she is only a fair carrier for raw sugar in bulk as can be seen from the discharge rate which is well below our normal rate...#1 hatch had sugar in the lower hold only but all hatch boards & beams were in place & had to be removed by ships crew before we could start this hatch...also #6 hatch did not open up until 1130 before we start the discharge...ships last cargo was a load of steel...there was much rain during the loading process but Captain informed me that work was immediately halted & the hatches covered up...there was burlap bags & strings all thru the entire stow but, outside of this, I did not observe any other foreign matter in the sugar...ship normally carries automobiles & there were support rails for such cargo under the tween deck coamings in #2-3-5-6 holds.. sugar caked up in those rails & created a major problem...crew finally cleaned out this sugar...#1 has a centerline bulkhead in the forepeak which made this area accessible to hand shoveling only...there were knee frame pockets in #1 which had to be hand shoveled...scale tested with 20,000 lbs. of test weights prior to each working period & manual test drafts were taken at regular intervals throughout the entire discharge...scale was operating perfectly at all times.

NORTH OF HATTERAS WEIGHING, INC.

P. HULME

John T. Kelly

INTERNATIONAL WEIGHERS, INC.

WEIGHT CERTIFICATE

120 Wall Street, New York, N.Y. 10005 October 7, 1978

Return of 27,915,400 LBS. THAILAND RAW SUGAR weighed by

INTERNATIONAL WEIGHERS, INC. for Tate & Lyle Commodities Ltd.

Marked for Refined Syrups & Sugars

Vessel (4751) "Panagis C"

Yonkers, N.Y.

Total Delivered: 27,915,400 Lbs.

Vessel arrived Ambrose	9-29-78	0630 hours
Vessel docked refiner/	9-29-78	1045 hours
Vessel started discharge	9-29-78	1130 hours
Vessel finished discharge	10- 7-78	1600 hours

Raymond J. N...
International We... S

Exhibit G

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Exhibit H

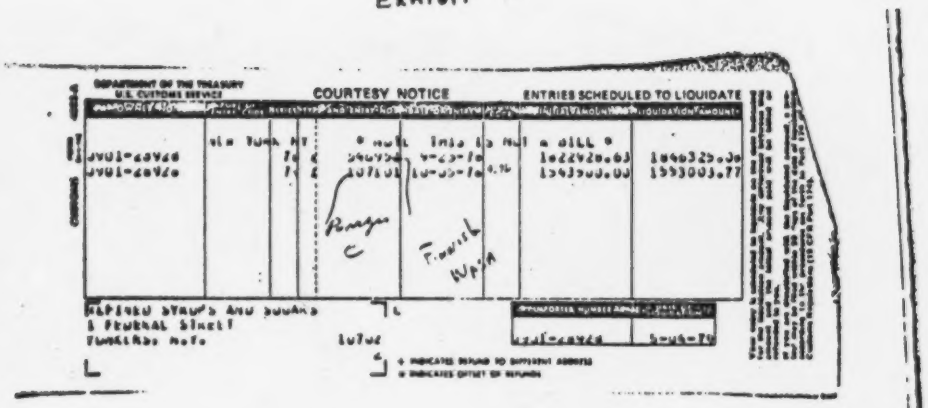

EXHIBIT I

PANAGIS C — FINAL CUSTOMS LIQUIDATION — ENTRY # 79-107101
COURTESY NOTICE DATED 5/4/79

Outturn Weight 27,915,400 lbs.
Average Pol° 97.015142
Customs Pol° 97.203

Duty 1.5% x 2.8125 x 1.203	2.8125 .050751 2.863251	$	799,287.97
Fee	2.70		753,715.80
		$	1,553,003.77

EXHIBIT J

DRAWBACK AVAILABILITY

Vessel	Panagis C	Customs Entry #79-107101	
Arrived Date	9/29/78	Expiry Date	9/29/81
Quantity (Lbs.)	27,915,400	Duty/Fee Rate	5.563251

Vessel Usage:

Date	Our Ref.#	Customs Entry #	Quantity	Balance Available
				27,915,400

EXHIBIT K

DRAWBACK AVAILABILITY

Vessel De Zhou **Customs Entry #82-258493**

Quantity (Lbs.) 11,278,760 **Duty/Fee Rate** 5.058250

Vessel Usage:

Date	Our Ref.#	Customs Entry #	Quantity	Balance Available
8/29/85	29	85-715637-2	1,661,058	9,617,702
9/30/85	31	85-715638-5	2,377,316	7,240,386
10/03/85	69	86-734406-4	407,602	6,832,784
10/07/85	67	86-734416-1	646,659	6,186,125
10/07/85	58	86-734415-8	618,423	5,567,702
10/17/85	100	86-734454-3	380,430	5,187,272
10/17/85	101	86-734455-6	95,162	5,092,110
10/29/85	125	86-734475-0	47,539	5,044,571
10/31/85	39	86-734402-2	1,047,300	3,997,271
11/12/85	103	86-734491-2	100,082	3,897,189
11/12/85	121	86-734488-6	45,037	3,852,152
11/21/85	43	86-734494-1	961,764	2,890,388
2/21/86	123	86-734712-6	99,947	2,790,441
2/21/86	124	86-734713-9	47,475	2,742,966
3/18/86	122	86-734753-7	142,617	2,600,349
3/18/86	119	86-734750-8	47,539	2,552,810
7/02/86	93	86-747570-0	72,497	2,480,313
7/02/86	25	86-747567-7	243,825	2,236,488
7/10/86	48	86-747580-7	1,349,748	886,740
9/22/86	79	86-747647-9	357,890	528,850
9/22/86	36	86-747648-2	171,762	357,088

Exhibit L

DECLARATION OF EXPORTATION

I, _____ (member of firm, officer representing corporation, agent, or attorney), of _____ declare that, according to the best of my knowledge and belief, the particular of exportation stated in this entry and the notices of exportation or lading are correct, and, that such merchandise is not to be relanded in nor returned to the United States, nor is it to be consumed as supplies or stores on the exporting vessel or conveyance. Further, the merchandise concerned ☐ was ☐ was not sold to a department, branch, or agency of the United States Government.

_____
Exporter or Agent.

Date _____

DECLARATION OF LADING OR USE

I, _____ (member of firm, officer representing corporation, agent, or attorney), of _____ declare that according to the best of my knowledge and belief, the particular of lading (or use) stated in this entry, the notices of lading, and receipts are correct, and that such merchandise is not to be relanded in the United States or any of its possessions, but is to be (has been) used on the vessels or aircraft named herein for _____

_____

_____
(State specifically, such as supplies, equipment, maintenance, or repair)

as specified in section 309 of the Tariff Act of 1930, as amended, or I. R. C. section 4222.

_____
Shipper or Agent.

Date _____

GPO 965-846

Entry No. 56/ 14210-5

DRAWBACK ON DOMESTIC MANUFACTURES
For use under sec. 313(b), T. A. 1930, as amended

District No. _____

Port of NEW YORK, NY

MANUFACTURED BY
Refined Sugars, Inc.

EXPORTED BY

Date of clearance 2/12/85-2/12/85

REFINED SUGARS, INC.
c/o F.E. WALLACE & CO., INC.
DRAWBACK SPECIALISTS
ONE WORLD TRADE CENTER (SUITE 4517)
NEW YORK, N.Y. 10048

This form may be printed by private parties, provided it conforms of official form in size, wording, color, and arrangement. For sale by District Directors of customs.

RECEIVED BY DES. U.S. CUSTOMS
Oct 23 9 26 AM '85
DRAWBACK OFFICE

212

86 734475-0 CO

Customs Form 7575-B(10-10-79)
DEPARTMENT OF THE TREASURY
19 U.S.C. 81c, 1313(a)(b)
22.13, 22.18, 22.24(a), 22.27(c)
22.42, 22.13 C.M.

DRAWBACK ENTRY AND CERTIFICATE OF MANUFACTURE FOR EXPORTED ARTICLES

UNITED STATES CUSTOMS SERVICE

Form approved.
O.M.B. No. 48-R0240.

Port of NEW YORK, NY (Date)

ENTRY FOR DRAWBACK, filed by P.E. WALLACE & CO., INC., *covering articles exported under Notices of Exportation or Lading, said notices and the articles covered thereby being particularly set forth here below, together with the imported merchandise designated and the quantity, kind, and quality of merchandise used in the manufacture of such articles, under the provisions of section 313(b), Tariff Act of 1930, as amended.*

Drawback claimed under T. D. 83.59 B/L

No. of Notice of Exp. or Lading	EXPORTING VESSEL	Date of Clearance	NAME OF SHIPPER	No. of Packages	QUANTITY AND DESCRIPTION OF EXPORTED ARTICLES
			SEE ATTACHED		
					Exporter.

DESIGNATED DUTY-PAID SUGAR, METAL, ORE CONTAINING METAL, FLAXSEED OR LINSEED, OR FLAXSEED OR LINSEED OIL (or products manufactured under drawback regulations)

No. of Import Entry	By Whom Imported	Name of Vessel	Date of Importation	Where Imported	Marks	Quantity, Kind, and Quality	Date Received at Factory	Date Used in Manufacture	Rate of Duty Paid	Certificate of Manufacture or Certificate of Delivery No.
		SEE ATTACHED								

QUANTITY, KIND, AND QUALITY OF MERCHANDISE USED	Value at the Factory*	Quantity of Waste, if any*	Factory Value of Waste*	QUANTITY AND DESCRIPTION OF ARTICLES PRODUCED

*Columns "Value at the Factory," "Quantity of Waste, if any," and "Factory Value of Waste," to be filled in only when necessary for liquidation of drawback entry.

We, _____, proprietor, and _____, foreman, declare that the articles described above were manufactured or produced on SEE ATTACHED, 19___, by REFINED SUGARS, INC., at Yonkers. NY, in accordance with the statement of the said firm or company subscribed to May 30. 1985, 19___, on file with the District Director of Customs at _____, with the use of the above-described merchandise; that the articles manufactured or produced from the said merchandise have not been in use or become damaged or deteriorated; that a true record of all articles manufactured or produced for export from the above-described merchandise is kept at such place or factory; that the weights, quantities, and/or measure of the articles manufactured or produced and the merchandise used and designated as above specified, are true and correct; that such record is at all times open to the inspection of officers of the customs; that the articles above described have been delivered to SEE ATTACHED on _____, 19___; that the data shown above with respect to the duty-paid merchandise designated are in accordance with the record of importations of said firm or company or the Certificate of Manufacture and Delivery or the Certificate of Delivery, as noted above, a copy of which as furnished by the importer or manufacturer is on file in this office, and, according to said record or certificates, no part of the duties paid have been refunded heretofore by way of drawback or otherwise; that the designated merchandise has not, subsequent to importation, been used or become damaged or deteriorated; and that duty-free or domestic merchandise of the same kind and quality as that designated was used in production within a period not to exceed 3 years from the receipt of the said designated merchandise.

SEE ATTACHEDF FOR SIGNATURES
Proprietor.

_____, Foreman.

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REFINED SUGARS INCORPORATED

OUR REF. 125 R

ACCELERATED DUTY DRAWBACK PAYMENT REQUEST

DATE 10/11/85

WE HEREBY REQUEST ACCELERATED PAYMENT OF DRAWBACK UNDER THE PROVISIONS OF SECTION 191.72, CUSTOMS REGULATIONS.

ACCELERATED PAYMENT BOND (TERM) IS ON FILE WITH THE REGIONAL COMMISSIONER OF CUSTOMS IN NEW YORK FOR AN AMOUNT OF $10,000,000 DATED 7/8/85 .

OUR CLAIM IS BASED ON THE FOLLOWING CALCULATIONS:

QUANTITY OF THE ARTICLE EXPORTED	47,539 LBS
DUTY PAID PER UNIT OF THE ARTICLE	2.916450 CENTS/LB
FEE PAID PER UNIT OF THE ARTICLE	2.141800 CENTS/LB.
TOTAL DUTY AND/OR FEE PER UNIT OF ARTICLE	5.058250 CENTS/LB
TOTAL AMOUNT OF DUTY AND/OR FEE PAID	$2,404.64
LESS 1%	$24.05
AMOUNT CLAIMED AS ACCELERATED DRAWBACK	$2,380.59
IMPORT ENTRY NUMBER(S) FOR THE DESIGNATED MERCHANDISE	82-250493

SIGNATURE David M. Hahn VICE PRESIDENT

Samuel P. Pfeiffer VICE PRESIDENT

I, OFFICER OF POWER OF ATTORNEY, OF REFINED SUGARS, INC. DECLARE THAT , ACCORDING TO THE BEST OF MY KNOWLEDGE AND BELIEF , THE PARTICULAR OF EXPORTATION STATED IN THIS ENTRY AND THE NOTICES OF EXPORTATION OR LADING ARE CORRECT , AND , THAT SUCH MERCHANDISE IS NOT TO BE RELANDED IN NOR RETURNED TO THE UNITED STATES , NOR IS IT TO BE CONSUMED AS SUPPLIES OR STORES ON THE EXPORTING VESSEL OR CONVEYANCE. FURTHER , THE MERCHANDISE CONCERNED HAS NOT SOLD TO A DEPARTMENT BRANCH , OR AGENCY OF THE UNITED STATES GOVERNMENT.

SIGNATURE f. Attorney

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DRAWBACK ENTRY FOR SUGAR AND SIRUPS
UNITED STATES CUSTOMS SERVICE PORT OF NEW YORK

DAB REF. 125 B DATE 10/11/85

ENTRY FOR DRAWBACK ON SUGARS AND SIRUPS EXPORTED UNDER NOTICES OF EXPORTATION, FILED BY REFINED SUGARS INC., SAID NOTICES, AND THE MERCHANDISE COVERED THEREBY BEING PARTICULARLY SET FORTH HERE BELOW, TOGETHER WITH THE DESIGNATION OF IMPORTED RAW SUGAR CONTAINING SUCROSE OF THE QUANTITY USED IN THE MANUFACTURE OF SUCH MERCHANDISE, BASED ON THE RELATIVE VALUE OF THE REFINED SUGAR, LIQUID SUGAR AND SIRUP PRODUCED DURING THE PERIOD COVERED BY THE ABSTRACTS LISTED BELOW ON FILE WITH THE COLLECTOR OF CUSTOMS AT THE PORT OF NEW YORK.

DRAWBACK CLAIMED UNDER T.D.83-59

NO. OF NOTICE OF EXPORTATION	EXPORTING VESSEL	DATE OF CLEARANCE	NAME OF SHIPPER	QUANTITY AND DESCRIPTION OF EXPORTED MERCHANDISE				
				REFINED QUANTITY	ABSTRACT	CUSTOMS NO.	SUCROSE FACTOR	SUCROSE POUNDS
SEE ATTACHED SHEET FOR DETAILS				45,600	FEBRS	34093	1.026506	46,809
				45,600				46,809

DESIGNATION OF THE IMPORTED SUGAR

IMPORT ENTRY	BY WHOM IMPORTED OR WITHDRAWN FROM WAREHOUSE	NAME OF VESSEL	WHEN IMPORTED	WHEN RECEIVED	WHERE IMPORTED	QUANTITY OF RAW SUGAR (POUNDS)	POLARIZATION	SUCROSE POUNDS
02-258493	REFINED SUGARS INC.	DE ZHOU	3/11/82	3/23/82	NEW YORK, N.Y.	47,539	98.444	46,809

I [signature] THE CUSTOMS ATTORNEY OF REFINED SUGARS INC. LOCATED AT YONKERS, N.Y., DO SOLEMNLY AND TRULY DECLARE THAT I VERILY BELIEVE, THAT THE RAW REFINED SUGAR DESCRIBED IN THIS ENTRY WAS MANUFACTURED BY SAID COMPANY AT ITS REFINERY AT YONKERS, N.Y., AND IS PART OF THE REFINED LIQUID SUGAR AND SIRUP COVERED BY THE ABOVE ABSTRACT(S), FILED AT THE PORT OF NEW YORK; THAT THE REFINERY AND OTHER RECORDS OF THE COMPANY VERIFYING THE STATEMENTS CONTAINED IN SAID ABSTRACT(S) ARE NOW AND AT ALL TIMES HEREAFTER WILL BE OPEN TO INSPECTION BY OFFICERS OF THE CUSTOMS; I FURTHER DECLARE THAT THE ABOVE DESIGNATED IMPORTED SUGAR UPON WHICH THE DUTIES HAVE BEEN PAID, WAS RECEIVED BY SAID COMPANY AS SIDE ABOVE) AND WAS USED IN THE PRODUCTION OF SUGAR AND SIRUP DURING THE PERIOD COVERED BY ABSTRACT NO. 4/62 CUSTOMS NO. 19207 ON FILE WITH THE COLLECTOR OF CUSTOMS AT NEW YORK. I FURTHER DECLARE THAT THE SUGARS OR SIRUP SPECIFIED HEREIN WAS DELIVERED TO THE ABOVE NAMED SHIPPERS.

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DNB.

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SUMMARY OF EXPORTED MERCHANDISE

NAME OF SHIPPER	CUSTOMER	EXPORT CARRIER	DESCRIPTION OF MERCHANDISE	DATE OF EXPORT	DATE OF MANUFACTURE	QUANTITY POUNDS	BS REF.	INVOICE #
REFINED SUGARS INC	EXCH FOODS	TRUCK	HARD REFINED SUGAR	3/12/85	FEB85	45,600	0877785	199382

DOC NO. 125 B DATE 10/11/85

45,600

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DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

NOTICE OF EXPORTATION OF ARTICLES WITH BENEFIT OF DRAWBACK

FORM APPROVED O.M.B. No. 48R0560

CERTIFICATE OF EXPORTATION

The records of this office show that the above-listed articles, in the quantities stated, were exported from this port by the exporter named hereon on or from dates shown, except as indicated below.

DATE CLEARED OR SHIPPED | DISTRICT DIRECTOR OF CUSTOMS

BY | TITLE

19. METHOD OF TRANSPORTATION
☐ Vessel (Steel, Tramp) ☐ AIR ☒ Other (Specify) Truck

20. DATE OF EXPORTATION (Also required for vessel shipments)
2/12/85

21. PLACE AND COUNTRY OF ULTIMATE DESTINATION
Toronto, Ontario

* FURNISHING OF THIS INFORMATION IS OPTIONAL

2. EXPORTER (If Applicable, Broker, Forwarder, agent, and address)
Refuel Sugar
Yonkers, N.Y.

3. CONSIGNEE, NO.
Eder Foods / Antigua Overseas Trading
Toronto, Ontario

5. EXPORT NO. AND DATE OF EXPORTATION
BOTTLES
ASI BK 199282

8. PORT AND COUNTRY OF ORIGIN

10. PIER OR AIRPORT

11. EXPORTING CARRIER (Vessel, flight number or car no. & initial)

12. PORT OF LOADING

13. FOREIGN PORT OR DESTINATION (If vessel and air cargo)

14. FOR TRANSSHIPMENT TO

15. ENTERED INLAND ROUTING*

16. MARKS AND NUMBERS	17. NO. OF PKGS.	18. DESCRIPTION OF ARTICLES	19. GROSS WEIGHT (Pounds)	20. MEASUREMENT	NO. CODE	22. SCHEDULE B COMMODITY NO.*	23. NET QUANTITY (Shown Units)	24. VALUE* (Actual Dollars)
	456	Hand Refined Sugar.			2	155.2035	45,600 lbs	

TO DIRECTOR: After examination of merchandise, has been exported, please forward this notice to:

3

The merchandise described in the Notice of Exportation was to be exported as stated herein and was not to be unloaded in the United States; and to the best of my knowledge and belief such articles have not been used and are entitled to registration and drawback of the duties paid or by imposed internal taxes in their manufacture, or of the

Refuel Sugar

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ENDORSEMENTS

The undersigned hereby authorizes	The undersigned hereby disclaims any right or interest to and in the drawback on the within-described articles and declares that	The undersigned hereby disclaims any right or interest to and in the drawback on the within-described articles and certifies that
Refined Sugars, Inc. Federal Street P.O. Box 509 Yonkers, N. Y. ~~10702~~		
to make entry and receive the drawback on the within-described articles	is the real shipper and exporter of such articles.	on the sale or consignment of the articles, reserved the right to the drawback thereon with the knowledge and consent of the undersigned.
NAME	NAME Morris Rotstein	NAME
BY (Name)	BY (Name)	BY (Name)
TITLE	TITLE Managing Director	TITLE

POSTMASTER'S CERTIFICATE

U.S. POST OFFICE: CITY AND STATE DATE OF MAILING

I certify that the packages bearing the marks and numbers as described in this notice of exportation were placed in the mails under my supervision. I further certify that each package had stamped or written thereon, signed by the exporter, a waiver of the right to withdraw such package from the mails.

SIGNATURE OF POSTMASTER

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This form may be printed by private parties provided that the copies printed by them conforms to this official form in size, wording, arrangement, and quality and color of paper. For sale by Superintendent of Documents.

GPO 945-221

FOR BILL INQUIRY CALL CUSTOMER SERVICE
(914) 963-2400 8:30 AM - 4:30 pm

BILL TO
ANTIGUA OVERSEAS TRADING
C/O MUNDABELL, INC.
1270 SHERBROOKE ST., W.
MONTREAL, QUEBEC H3G 1H7

SHIP TO
EDEN FOODS
95 ADVANCE ROAD
TORONTO, ONTARIO
CANADA

[redacted] Street
Yonkers, New York 10702
(914) 963-2400

INVOICE DATE	INVOICE NO
2/04/85	199282

Please Refer To This Number When Remitting

MAKE ALL CHECKS PAYABLE TO:

REFINED SUGARS INC.
P.O. BOX 9849
CHURCH STREET STATION
NEW YORK, N.Y. 10249

CUSTOMER NO	TRADE	STATE	TOWN	MA/SLMN	PLT/WHSE	BROKER	CONTRACT/B.C.
023800001	34	85	0690	413 50	26	058	6192-80

ORDER DATE	YOUR ORDER NO	SHIPPING DATE	FREIGHT	SHIP VIA
1/31/85	5110	2/01/85	PREPAID	FRUITBELT TRKG. INC. 385

QUANTITY	UNIT	PRODUCT	DESCRIPTION	PRICE	AMOUNT
456	CWT	02203	#100 XFINE GRAN SUGAR WS	8.85	4,035.60
	CWT		FREIGHT	1.55	706.80
			PALLETS		114.00
			6.00 PALLET CHG.		
			ON 19 PALLETS		

INVOICE TOTAL → 4,856.40

PAYMENT TERMS: NET 10 DAYS
CASH DISCOUNT OF NET 10 WILL
BE ALLOWED IF PAID NOT LATER THAN 2/14/85

SALES COPY

SEE TERMS AND CONDITIONS OF SALE ON REVERSE SIDE

SELLER CERTIFIES THAT IN THE PRODUCTION OF THE GOODS COVERED BY THIS INVOICE IT HAS COMPLIED WITH THE FAIR LABOR STANDARDS ACT OF 1938 AS AMENDED

PLEASE RETURN REMITTANCE COPY FOR PROPER CREDIT

B3

CANADA CUSTOMS – DOUANES DU CANADA

IMPORT ENTRY CODING FORM
FORMULE DE CODAGE DE DÉCLARATION D'IMPORTATION

Commerce Customs Brokers

BROKER'S REFERENCE / RÉFÉRENCE DU COURTIER: 512167

TYPE: AB | PAGE: 1

IMPORTER NAME & NAME, ADDRESS / NOM ET NOM, ADRESSE DE L'IMPORTATEUR:
Applied For
Eden Foods Ltd
95 Advance Road
Toronto, Ontario

CARGO CONTROL NO / NO DE CONTRÔLE DE FRET: 1278 427 151320

C.C. QUANTITY / QUANTITÉ C.C.: 456

VENDOR NAME / NOM DU VENDEUR: Refined Sugars Incorporated

INVOICE QTY / QTÉ FACTURÉE: 456

ACCOUNT / SECURITY NO / NO DE COMPTE - GARANTIE: 13367

PORT / BUREAU: 427

ENTRY NO / NO DE DÉCL.: 02035 B077705

CTRY EXPORT / PAYS EXP.	CTRY ORIGIN / PAYS D'ORIG.	DOM / IMP	TARIFF TREAT / TRAIT. TARIF
020	009	A	2

REL NO / NO DE MAINLEVÉE:

EXCHANGE RATE / TAUX DE L'ÉCHANGE: 1.325

Feb 2/85

$4028.53

Fruitholt Ltd V4808

	TARIFF ITEM / NO TARIFAIRE	COMMODITY CODE / CODE DES MARCH.	QUANTITY / QUANTITÉ	U of M / U de M	RATE OF DUTY / TAUX DE DROITS	MF	GP	SPT	VALUE FOR CURRENCY CONVERSION / VALEUR POUR CHANGE	EXCH. RATE / TAUX DE CHANGE	CNTRY ORIG. / PAYS D'ORIG.	DUTY BASIS	VALUE FOR DUTY (CAN. DOLLARS) / VALEUR IMPOSABLE	REGULAR DUTY / DROITS ORDINAIRES	DUTY PAID VALUE / VALEUR ACQUITTÉE	SALES TAX / TAXE DE VENTE	EXCISE TAX / TAXE D'ACCISE	PROV. (ANTI-DUMP. DUTY / PROV. TAX / DROIT PROV. / TAXE PROV.
1	Refined cane sugar																	
	13418-1	1015929	57	456.00	14	1.40	55			4028.53	01	02	009	3337.00	638.40		00	
2																		
3																		
4	Permit #997603																	
5																		
6																		

A. SIGNATURE: D Alderton

OFFICE: Commerce Customs Brokers

DATE: Feb 8/85

P.A. NUMBER / No DE LA PROCURATION: One time PA

SIGNATURE

DATE

MEMORANDUM

SUBJECT TO AMENDMENT / SOUS RÉSERVE DE MODIFICATION — SPECIAL AUTHORITY / AUTORISATION SPÉCIALE

TOTAL F.M.V. / TOTALE J.V.C.	37 CNCY CODE / CODE DE VISE
4028.53	009

TIME LIMIT / DÉLAI

CENTRAL PAYMENT / PAIEMENT CENTRAL

LOCAL PAYMENT / PAIEMENT LOCAL

HOLD FOR PAYMENT / RETENIR POUR PAIEMENT

DUTY / DROIT	638.40
SALES TAX / TAXE DE VENTE	00
EXCISE TAX / TAXE D'ACCISE	00
TOTAL	638.40

L-B

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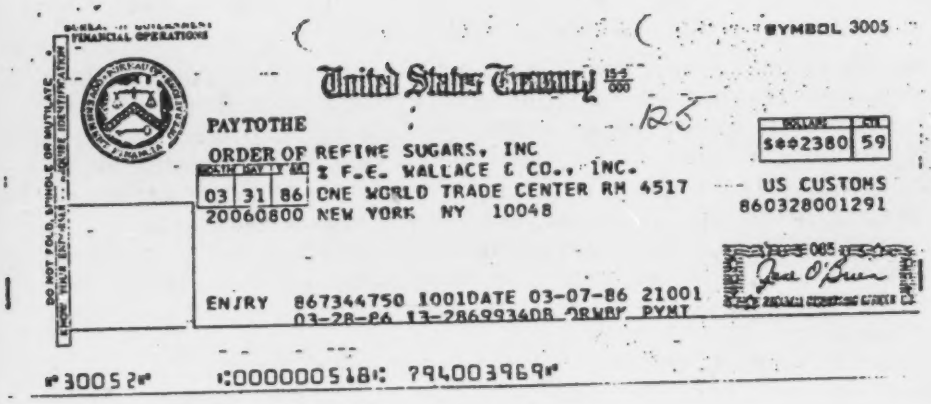
Exhibit M



BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

SYMBOL 3005

United States Treasury 125

PAY TO THE ORDER OF REFINE SUGARS, INC
% F.E. WALLACE & CO., INC.
ONE WORLD TRADE CENTER RM 4517
NEW YORK NY 10048

DOLLARS	CTS
$**2380	59

US CUSTOMS
860328001291

MONTH	DAY	YEAR
03	31	86

20060800

ENTRY 867344750 1001DATE 03-07-86 21001
03-28-86 13-28699340R 2RWRY PYMT

Jack O'Brien

⑈3005⑈ ⑆000000518⑆ 794003969⑈

Senator MELCHER. Thank you, Mr. Ferrier.
Mr. Shanley.

STATEMENT OF WILLIAM C. SHANLEY III, PRESIDENT, AMSTAR SUGAR CORP., NEW YORK, NY

Mr. SHANLEY. First of all, Senator, I would like to congratulate you on your patience in listening to everything here about the cane sugar industry. I am sure you got more than you expected.

My name is William C. Shanley. I am President of Amstar Sugar Corporation. My company currently operates cane sugar refineries in Boston, Brooklyn, Baltimore, and New Orleans, Louisiana.

I am pleased to have the opportunity to address the subcommittee on the so-called drawback amendment and, perhaps, put to rest some of the misconceptions that have arisen concerning that amendment.

I am not going to follow my written testimony exactly. I want to make the point here over the next few minutes to explain to the subcommittee how and when drawback funds would be collected, and what the disposition of those funds truly is.

Some of our unused drawback is at such low rates as to be insufficient to support an export sale. The amount of unused drawback which Amstar could economically utilize, under the most optimistic conditions, is approximately $175 million. However, with the current uncertainty as to when the trade bill will be signed into law and the always uncertain competitive conditions in the world refined sugar marketplace, it is difficult to assess exactly how much of this drawback Amstar will eventually claim.

Like other speakers, I want to make it clear that the drawback received by us or any other refiner is not pure profit. We have to compete with the EEC, which is heavily subsidized.

Then, only after Amstar has made a sale at a competitive price and exported a cargo of refined sugar, can Amstar submit a claim for drawback for that shipment. It normally takes about 2 months before we receive a check from the U.S. Treasury. As I will demonstrate, most of that check has been used to replace money that we have advanced to pay for the costs of the sale.

My company, Amstar Sugar Corporation, can, under ideal circumstances, ship approximately 35,000 tons of refined sugar per month into the world market. That is about $7 million a month, and it seems to me, you know, we have talked about everything but trade here, and that is certainly a significant number. As I stated previously, whether or not that amount of sugar is, in fact, sold and exported depends first and foremost on the availability of drawback and, secondly, on the competitive price for refined sugar. I want to stress that without drawback, Amstar will not be able to compete in the world market and all its exports will cease approximately the end of this year.

For the purposes of this hearing, I have assumed that the trade bill will be enacted into law on April 1, 1988, and that Amstar would, from that date forward, be able to ship at its maximum capacity of about 35,000 tons per month until the expiration of the law on September 30, 1991. It is important to point out that there is an expiration date on this law. I have also assumed that competi-

tive conditions will allow these sales, and the purpose of that being in order to show the committee the approximate amount of drawback that Amstar will claim over the life of the bill.

Using Amstar's average drawback rate of approximately $4.60 per hundred pounds, the maximum drawback we anticipate claiming will be about $149 million.

Exhibit A, which was calculated on the basis of our prior export experience, shows the estimated distribution of those drawback moneys.

I think it is particularly important to note that over half of the total of the $149 million we anticipate drawing back will go toward labor expenses, both with our union personnel, ILA and UFCW, and our office employees. In other words, out of $149 million, approximately, I think it is $67 million, plus 8, plus 6 there—approximately $73 million will go toward wages. Both of these unions, I might add, strongly support this legislation, as evidenced by the copies of their letters, attached as exhibits B and C.

Materials, textile and paper bags, textile and paper bags being the most important item, all purchased in the United States, will account for $42 million, or 28 percent, of the drawback funds.

I have attached as exhibits D, E, and F copies of a letter from Albert Werthan of Nashville, Tennessee, an executive of the company that supplies Amstar with textile bags for export, and the attached letters written to Senators Gore and Sasser, describing the importance of this bill to the 60 workers at that firm's Nashville plant who are directly involved in the manufacture of bags just for the Amstar Corporation.

It is important to note that $10 million will be returned by Amstar directly in taxes. In addition, the wages paid will generate additional taxes and social security withholdings, which we estimate at about $21 million. In addition, the fuel and the textile bags and other materials bought, of course, will all generate taxes paid by our suppliers and their employees.

Senator Barbara Mikulski noted during the Senate debate of the drawback amendment that she was not merely concerned with the fate of the sugar refinery and its workers in her State, but she was also concerned about the negative multiplier effect on the State's economy from the loss of the secondary economic activity generated by the refining activity.

I have added to my written statement exhibit G. Admittedly, it is dated, but the philosophy of what Mr. Nathan talks about in the secondary multiplier effect is important, and I think it still holds, while the study itself is dated. It is dated in one respect because at the time of the study, I think there were 12 or 13 sugar refineries, and that alone dates it because there are now only 5.

Over the period that this drawback bill will be in effect, which is approximately 3½ years, Amstar will purchase primarily from Caribbean Basin countries over 1.5 million tons of raw sugar in excess of what would be purchased without this bill.

I disagree with one of the former speakers here who said that this would cause a decrease in the price of world raw sugar. I disagree completely. I think that the Caribbean Basin countries will get a premium for their sugar over what they would have to do if they had to dump it out in the world marketplace. That 1.5 million

tons that we alone would purchase from the CBI, I think, is an important factor in this thing.

Assuming the continuation of current market conditions, total export sales by Amstar during this period will be approximately $300 million, and I hasten to point out that without this bill, sales will be zero.

The contribution to Amstar's earnings generated by the $149 million of drawback and the $300 million of sales is about $16 million over the 3½-year period.

The drawback provision, Senator, maintains U.S. jobs and promotes exports which, I believe, is what the trade bill is all about.

I understand that the primary reason for holding these hearings was to properly document our claims for the drawback, and I am just going to summarize that by saying we have here with us—we retained Customs International, Incorporated, an organization staffed by former Customs officials, to look over our records.

At random, they took almost 100 entries and went through them and followed the documentation, and they have stated that our documentation completely satisfies all rules of the Customs agency.

The three principals of Customs International are Richard R. Martinez, former Chief, Drawback Division; Harry Haroian, former Supervisory National Import Specialist; and Edward T. Coyne, former Regional Director of Investigations. Mr. Coyne and Mr. Haroian are here to answer any questions that anybody might have.

But we are convinced, Senator, that our documentation, as the previous people from Savannah have testified, will completely meet all requirements, and certainly you and your staff are free to talk to the people from Customs International at any time you may wish. They will be at your service, and I think we can prove to you that our documentation is completely adequate.

In closing, I hope I have shown to the subcommittee, one, that enactment of this legislation will maintain jobs in the United States. Those dollars that we have that are paying our refinery workers and longshoremen are all maintaining jobs, and which, by the way, probably is why the bill was introduced by Representative Jenkins initially in the House and then followed in the Senate by Senators Breaux, D'Amato, Johnston, Mikulski, Moynihan, and Sarbanes, and why it passed both Houses of Congress in identical form.

As I stated previously, we have sufficient documentation to substantiate our claims, and I think that we have also shown that the cost of the drawback amendment will be substantially offset by the taxes generated directly and indirectly from the export operations of the United States cane refining industry.

I thank the Senator for giving me the opportunity to speak and I offer our services and anything we can do to further help you decide your feelings on the total matter.

[The prepared statement of Mr. Shanley, with attachments, follow:]

TESTIMONY
OF
WILLIAM C. SHANLEY, III
BEFORE THE SUBCOMMITTEE ON AGRICULTURAL PRODUCTION
AND STABILIZATION OF PRICES
WASHINGTON, D.C.
NOVEMBER 16, 1987

My name is William C. Shanley. I am the President of Amstar Sugar Corporation. My company currently operates cane sugar refineries in Boston, Massachusetts; Brooklyn, New York; Baltimore, Maryland; New Orleans, Louisiana; and a liquid sugar station and warehouse in Chicago, Illinois.

I am pleased to have the opportunity to address the Subcommittee on the so-called "Drawback Amendment" and, hopefully, put to rest some of the misconceptions that have arisen concerning that Amendment.

I believe that previous speakers will have shown that passage of Section 897 of the Omnibus Trade Bill will not give the five members of the cane refining industry who will participate in the program a blank check to collect a refund of duties and fees they have previously paid into the U.S. Treasury. They will have also pointed out the importance of the Drawback Bill to the beleaguered cane refining industry and to the domestic cane growers who depend on the refiners to purchase their crops.

I will attempt, over the next few minutes, to explain to the Subcommittee how and when drawback funds would be collected, and what the disposition of those funds truly is.

Some of the unused drawback is at such low rates as to be insufficient to support an export sale. The amount of unused drawback which Amstar could economically utilize, under the most optimistic conditions is approximately 175 million dollars.

However, with the current uncertainty as to when the Trade Bill will be signed into law and the always uncertain competitive conditions in the world refined sugar marketplace, it is difficult to assess exactly how much of this drawback Amstar will eventually claim.

Before I go on, I would like to make it clear that the drawback received by any U.S. refiner is not pure profit. In order to be competitive with the EEC, whose sugar is heavily subsidized, the U.S. refiners must use the anticipated drawback to lower their selling prices.

Then, only after Amstar has made a sale at a competitive price and exported a cargo of refined sugar, can Amstar submit a claim for drawback for that shipment. It normally takes about two months before we receive a check from the U.S. Treasury. And, as I will demonstrate, most of that check is used to replace money that we have advanced to pay for the costs of the sale.

My company, Amstar Sugar Corporation, can, under ideal circumstances, ship approximately 35,000 tons of refined sugar per month into the world market. As I stated previously, whether or not that amount of sugar is in fact sold and exported depends first and foremost on the availability of drawback, and secondly, on the competitive price for refined sugar. I wish to stress that without drawback, Amstar will not be able to compete in the world market.

For the purposes of this hearing, I have assumed that the Trade Bill will be enacted into law on April 1, 1988 and that Amstar would, from that date forward, be able to ship at its maximum capacity of about 35,000 tons per month until the

expiration of the law on September 30, 1991. I have also assumed that competitive conditions will allow these sales, in order to show the Committee the approximate amount of drawback that Amstar would claim over the life of the Bill.

Using Amstar's average drawback rate of approximately $4.60 per hundred pounds, the maximum drawback claimed would be about $149,000,000.

Exhibit A, which was calculated on the basis of our prior export experience, shows the estimated distribution of those drawback monies.

A few points are worth highlighting:

1. Of the total drawback to be refunded, 67 million dollars, or 45%, will go towards paying the wages of our ILA and UFCW union members. Both of these unions, I might add, strongly support this legislation, as evidenced by the copies of their letters, attached as exhibits B&C.

2. Materials, textile and paper bags, fuel, etc., all purchased in the U.S., account for 42 million dollars, or 28%, of the drawback funds.

I have attached as Exhibits D, E & F copies of a letter from Albert Werthan of Nashville, Tennessee, an executive of the company that supplies Amstar with textile bags for export, and the attached letters written to Senators Gore and Sasser describing the importance of this Bill to the sixty workers at the firm's Nashville plant who are directly involved in the manufacture of Amstar's bags.

3. It is important to note that 10 million dollars will be returned by Amstar directly in taxes. In addition, the wages

paid will generate additional taxes and Social Security withholdings estimated at 21 million dollars. Taxes will also be paid by our suppliers and their employees.

4. Senator Barbara Mikulski noted during the senate debate on the drawback amendment that she was not merely concerned with the fate of the sugar refinery and its workers in her state, but was also concerned about the negative multiplier effect on the state's economy from the loss of the secondary economic activity generated by the refining activity. That concern applies to every state in which an exporting sugar refinery is located. Attached as Exhibit G is an extract of a study of the cane sugar refining industry conducted in 1971 by Robert N. Nathan Associates, Inc. which illustrates the significance of the multiplier effect.

5. Over the period, Amstar will purchase primarily from Caribbean Basin countries, over one and one-half million tons of raw sugar in excess of what would be purchased without this Bill.

6. Assuming the continuation of current market conditions, total export sales by Amstar during the period will be approximately $300,000,000.

7. The contribution to Amstar's earnings generated by the $149,000,000 of drawback to be refunded will be about $16,000,000 over the three and one-half year period.

8. The "drawback provision" maintains U.S. jobs and promotes exports which, I believe, is what the Trade Bill is all about.

I understand that the primary reason for holding these hearings was to obtain assurances that the refiners are able to properly document their claims for drawback. Therefore, in

response to chairman Melcher's earlier request, Amstar Sugar Corporation submitted samples of the documents which it would rely on to substantiate its claims for drawback in the event that the U.S. Customs Service does not have in its own files all of the documents with which to verify such claims. These documents included copies of the original Consumption Entries (Customs Form 7501) filed by Amstar and the Courtesy Notices (Customs Form 4333A) received by Amstar which show, by difference, any dollar adjustments applicable to the consumption entries and finalize the amounts involved. In almost all cases, the documents which Amstar would use either came from the Customs Service or bear a contemporaneous stamp or other acknowledgement of the Customs Service.

In addition, Amstar has cancelled checks and other receipts from the U.S. Customs Service which can be used, if necessary, to confirm our payment of all applicable duties and fees on the raw sugar in question.

Amstar has retained Customs International Inc., an organization staffed by former Customs officials, to review Amstar's records. That firm conducted its review and has concluded that Amstar's documentation satisfies all of the established requirements of the U.S. Customs Service. The persons who conducted the review were Richard R. Martinez, former Chief, Drawback Division; Harry Haroian, former Supervisory National Import Specialist; and Edward T. Coyne, former Regional Director of Investigations, all of whom are retired from the U.S. Customs Service. Those gentlemen, collectively, have over 85 years of experience with the U.S. Customs Service. They will be

assisting us in preparing and presenting the appropriate documents to the customs service in a manner which will minimize any potential administrative or economic burden on that agency. Mr. Coyne and Mr. Haroian are here today and are available to answer any questions which may still remain concerning the sufficiency of the records to establish Amstar's drawback claims.

I might add that, the foregoing notwithstanding, Amstar believes that the Customs Service, in fact, has most, if not all, of the records that would be required to establish Amstar's drawback claims. I would also note that Treasury and Customs officials were informed of the proposed Drawback Amendment prior to September, 1986, and were asked to take steps to prevent the destruction of any records which might be required to implement the Amendment.

In closing, I hope that I have shown to the subcommittee:

1. That enactment of this legislation will maintain jobs in the U.S. and provide exports, which is why the Bill after its introduction into the House by Representative Jenkins was introduced and co-sponsored in the Senate by Senators Breaux, D'Amato, Johnston, Mikulski, Moynihan and Sarbanes and why it passed both houses of Congress in identical form in the first place;

2. That Amstar has sufficient documentation to substantiate any claims for drawback made under the Bill; and

3. That the cost of the Drawback Amendment will be substantially offset by the taxes generated, directly and indirectly, from the export operations of the U.S. cane sugar refiners.

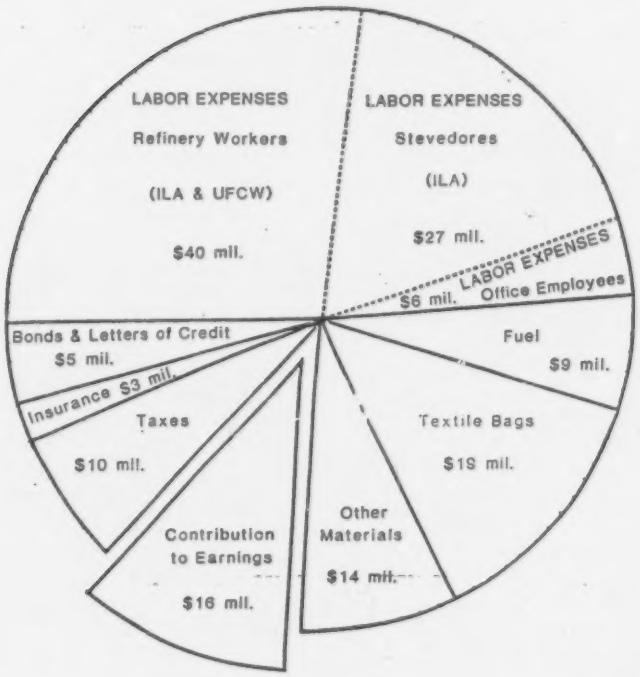
If I can be of any further help to the subcommittee in regard to this matter, I will be pleased to be of service.

Exhibit A

AMSTAR SUGAR CORPORATION

ESTIMATED DISTRIBUTION OF DRAWBACK TO BE CLAIMED ASSUMING MAXIMUM EXPORTATION DURING THE PERIOD APRIL 1, 1988 THROUGH SEPTEMBER 30, 1991

$149 million



Nov. 16, 1987

Exhibit B

FRANK LONARDO
PRESIDENT
ANTHONY PIMPINELLA
EXECUTIVE VICE-PRESIDENT
LOUIS PERNICE
SECRETARY-TREASURER

LONGSHORE DIVISION
ALFRED SMALL
VICE-PRESIDENT
GREGORY LAGANA
DELEGATE
PHILIP LIPARI
DELEGATE
JOSE RAMOS
DELEGATE

MAINTENANCE DIVISION
JOSEPH F. COLOZZA
VICE-PRESIDENT
MICHAEL PORTA, JR.
DELEGATE
PHILIP SCALA
DELEGATE

SUGAR DIVISION
JOSEPH RANDAZZO
VICE-PRESIDENT
LLOYD BUCKNELL
DELEGATE
LOUIS PANTANO
DELEGATE

INDUSTRIAL DIVISION
CARLOS MORA
VICE-PRESIDENT
ALBERT RICH
DELEGATE

EXECUTIVE BOARD MEMBERS
COSMO CASAREGOLA
LEROY GWYNN
RALPH A. PERRELLO
RICHARD PIERCE

DISTRICT COUNCIL DELEGATES
JOHN BALSAMO
ANTHONY MARINELLI
ISIDORE MARSH
VITO TARTAGLIONE

1814

LOCAL 1814 INTERNATIONAL LONGSHOREMEN'S ASSOCIATION • AFL-CIO

343 COURT STREET • BROOKLYN, N.Y. 11231
(718) 834-7800

June 12, 1987

The Honorable Lloyd Bentsen
Chairman, Committee on Finance
United States Senate
Washington, DC 20510

Dear Mr.Chairman:

I am writing on behalf of the International Longshoremen's Association, Local 1814, in support of the extension of sugar drawback rights (S.896), a provision in S.490.

Without the extension of drawback rights, U.S. cane sugar refiners will be forced to cease their re-export business. That will lead to still more refinery closings, beyond the eight refineries (out of twenty-two) that have shut their doors in the past five years.

Already, over seven thousand jobs have been lost in the cane refinery industry. We do not want to see more men and women thrown out of work because Congress fails to allow refiners to keep on exporting refined sugar. In this industry, as with most others, exports mean jobs.

Sincerely yours,

Frank Lonardo
President

FL:jc

Exhibit C

June 12, 1987

COPY

The Honorable Lloyd Bentsen
Chairman, Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I am writing on behalf of the United Food and Commercial Workers International Union in support of the extension of sugar drawback rights (S.895), a provision in S.490.

Without the extension of drawback rights, U.S. cane sugar refiners will be forced to cease their re-export business. That will lead to still more refinery closings, beyond the eight refineries (out of twenty-two) that have shut their doors in the past five years.

Already, over seven thousand jobs have been lost in the cane refining industry. We do not want to see more men and women thrown out of work because Congress fails to allow refiners to keep on exporting refined sugar. In this industry, as with most others, exports mean jobs.

Sincerely yours,

Arnold Mayer
International Vice President
Director, Public Affairs

Exhibit D

WERTHAN INDUSTRIES, INC.
NASHVILLE, TENNESSEE
CHAIRMAN OF THE EXECUTIVE COMMITTEE
P.O. BOX 1210
NASHVILLE, TENN. 37202
(615) 259-9331

August 24, 1987

Mr. M. J. O'Shaughnessy
Amstar Sugar Corporation
1251 Avenue of the Americas
New York, N. Y. 10017

Dear Mr. O'Shaughnessy:-

We are aware of your Company's concern, which we fully share, respecting the Omnibus Trade Bill adopted by both the House and Senate and presently under consideration by a joint Senate/House Committee. As we understand, it contains a provision extending by five years the period for which sugar refiners may seek refund of duties they paid on imported raw sugar which they thereupon refined and shipped in export.

It is common knowledge that if the above proviso is not retained in the final Bill, several thousand workers in your industry will have to be laid off. The defeat of this proviso will have other downside effects; our Company is a case in point.

For many years Werthan has been privileged to serve Amstar as an important supplier of polyethylene lined textile bags in which this sugar is exported. Presently there are approximately sixty employees in this operation. The sugar portion of our entire business in this area is of such magnitude that, if this provision is not enacted, the management may well determine it necessary to phase out the total textile bag operation. Many of these employees have devoted their entire career to the production of textile bags. Their average length of service is considerable and a retraining program for many would be ineffectual.

Enclosed are photocopies of communications we have addressed to Senators Gore and Sasser. We are indeed hopeful they will use their best offices on our behalf.

Sincerely,

Albert Werthan

AW/B
cc: Senator Albert Gore, Jr.
cc: Senator James R. Sasser

Exhibit E

WERTHAN INDUSTRIES, INC.
NASHVILLE, TENNESSEE

CHAIRMAN OF THE BOARD

P. O. BOX 1310
1400 EIGHTH AVENUE, NORTH
NASHVILLE, TENNESSEE 37202-1310
(615) 259-9331

August 24, 1987

Senator Albert Gore, Jr.
Russell Senate Office Building
Washington, D. C. 20510

Dear Al:-

The Omnibus Trade Bill is now under consideration by a joint Senate/House Committee. As it now stands, it contains a provision for extending by five years the period for which sugar refiners can seek refunds for duties they paid on imported sugar which they refined and exported.

As the attached letter to Amstar a major customer of ours indicates, if the Trade Bill does not pass with this provision retained, Werthan is faced with the very serious problem of laying off sixty employees. These employees are directly involved in the manufacture of bags used in the export of sugar.

Obviously our problem is only a part of the general industry problem which other bag manufacturers and sugar refiners face.

I would urge that you do everything possible to see that the legislation emerges from Committee with this provision retained and is approved by the President.

As always, your help will be greatly appreciated.

Sincerely,

Herb Shayne

HMS/B

cc: Amstar Sugar Corporation

Encl.

Exhibit F

WERTHAN INDUSTRIES, INC.
NASHVILLE, TENNESSEE

CHAIRMAN OF THE BOARD

P. O. BOX 1310
1400 EIGHTH AVENUE, NORTH
NASHVILLE, TENNESSEE 37202-1310
(615) 259-9331

August 24, 1987

Senator James R. Sasser
Russell Senate Office Building
Washington, D. C. 20510

Dear Jim:-

The Omnibus Trade Bill is now under consideration by a joint Senate/House Committee. As it now stands, it contains a provision for extending by five years the period for which sugar refiners can seek refunds for duties they paid on imported sugar which they refined and exported.

As the attached letter to Amstar a major customer of ours indicates, if the Trade Bill does not pass with this provision retained, Werthan is faced with the very serious problem of laying off sixty employees. These employees are directly involved in the manufacture of bags used in the export of sugar.

Obviously our problem is only a part of the general industry problem which other bag manufacturers and sugar refiners face.

I would urge that you do everything possible to see that the legislation emerges from Committee with this provision retained and is approved by the President.

As always, your help will be greatly appreciated.

Sincerely,

Herb Shayne

HMS/B

cc: Amstar Sugar Corporation

Encl.

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Exhibit G

CANE SUGAR REFINING IN THE UNITED STATES

Its Economic Importance

Study by

Robert R. Nathan Associates, Inc.

© 1971 by the United States Cane Sugar Refiners' Association, Washington, D.C.

Library of Congress Catalog Card No. 70-151791

V. IMPACT OF THE INDUSTRY ON THE U.S. ECONOMY

U.S. cane refining is a truly national industry. The refining companies directly employ 12,000 people; directly utilize the services of the stevedores, pilots, and tug operators who handle and discharge the more than 500 vessels that bring the raw sugar from offshore sources each year; and directly utilize the services of the people who move raw sugar from the mills in Florida and Louisiana to the refineries.

At the other end of the processing spectrum, the refiners are responsible for moving most of the refined sugar from the refineries to warehouses and/or to the consumers themselves. This movement accounts for an estimated 1.5 billion ton-miles of rail, barge and truck traffic annually—the equivalent of 50,000 trucks moving bumper-to-bumper from San Francisco to New York. Thus it is no exaggeration to refer to the U.S. cane sugar refining industry as having a significant and direct national economic impact.

The true consequences of the industry, of course, reach far beyond the direct influence it exerts. The dollars which are generated by the refineries are spent by their recipients on the procurement of goods and services. These, in turn, command still other economic activities—and so on, in a kind of spiral which finally exhausts itself after numerous rounds, each of progressively diminishing impact.

Thus economists speak of the "multiplier effect," by which they refer to this continual respending of income received directly from an industry by its wage and salary earners. The "size" of the multiplier varies from one region of the country to another, and from one industry to another. Our analysis shows that for every person directly employed in the New Orleans refineries, an additional 2.57 persons may be indirectly receiving employment. Even in Savannah, showing the lowest multiplier, every person employed in the refinery may generate another 1.47 jobs in the region.

In judging the importance of the industry, both its direct and indirect effects must be taken into account. And by this standard it is clear that the 12,000 or so jobs in the sugar refining industry account for a total of perhaps

36,000 jobs, mainly concentrated around eight port areas in the United States.

The impact of the sugar refining industry on the economy generally—and, more particularly, on selected regions of the United States— is described in greater detail in the sections which follow.

Total Direct Impact[21]

Employment and Production

In 1968 (the most recent year for which reliable data are available), the mainland cane refining industry employed just over 12,000 people, nearly 90 percent of whom were production workers. Constant improvement in the efficient utilization of capital and manpower has enabled the industry to record an impressive increase in the value added in production per employee, which rose from about $19,000 in 1961 to over $33,000 in 1968 (table 12), an average gain of over 8 percent per year compounded. When measured in physical terms, the increase in production per employee rose by more than 60 percent in that same 7-year period (table 13).

[21] Unless otherwise indicated, all financial data regarding refiners' operations were taken from answers to questionnaires sent to all members of the United States Cane Sugar Refiners' Association. These data were expanded (on the basis of the relation of sustainable refining capacity) to account for the entire U.S. cane refining industry.

Table 12. Employment, Earnings and Value Added: U.S. Cane Sugar Refining Industry, 1961–68

Year	Total midyear employment	Annual earnings per employee	Value added per employee[a]
		dollars	
1961	16,600	7,126	19,047
1962	16,100	7,380	21,176
1963	15,700	7,852	25,951
1964	14,400	8,562	27,718
1965	14,200	8,470	28,281
1966	14,300	8,777	26,267
1967	12,108	9,412	32,164
1968	12,049	9,302	33,604

[a] Value added per cwt. equals refined cane net wholesale price per cwt. minus (1) raw sugar price c.i.f., N.Y., and (2) duty.

Source: Employment and earnings data supplied by members of the industry. Value added per employee calculated from U.S. Department of Agriculture production data.

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Table 18. Direct Impact of the U.S. Cane Sugar Refining Industry, 1968

Area	Direct expenditures	Direct employment
	(mil. dol.)	(no. of emp.)
New Orleans	41.6	2,433
New York	40.2	2,712
San Francisco	40.1	1,737
Philadelphia	20.5	1,305
Baltimore	12.9	831
Boston	12.0	1,048
Savannah	10.8	811
Sugar Land	10.5	829
Chicago	7.3	229
Clewiston	1.0	33
Subtotal	196.4	11,508
Other locations	11.4	541
Total	207.8	12,049

Indirect Impact

It has already been noted that the total impact of the cane sugar refining industry on the communities in which the facilities are located substantially exceeds the direct contribution of the industry. The difference is accounted for by what is called "indirect impact," which the refiners' expenditures generate in the local communities in which they are situated. An initial expenditure by a firm gives rise to an initial income received by another firm, or by an individual, which in turn leads to a chain of expenditure-income-expenditure events. The initial income is termed the direct impact, and the subsequent rounds of derived incomes are known as the indirect impact. Not all of the income generated in each round within a region is respent. A certain portion is saved. Also, a portion of the amount that is respent will leave the area and be respent elsewhere. Thus the indirect impact is not infinite, but tends to converge on some finite multiple of the initial expenditure. The impact of a particular pattern of expenditures, when quantified in relation to the initial expenditure, is referred to as the multiplier of the income generation pattern.

The actual construction of multiplier values for particular industries in particular geographic areas is not now a practicable exercise, as it requires that all the economic factors affecting each and every separate industry be quantitatively related to all the factors that affect each and every other

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industry.[17] It is nevertheless possible to develop a single multiplier value which describes the direct and indirect impact on the average of all basic industries in the area. This is made possible by material compiled by the Department of Commerce. Because all "basic"[18] industries in an area are treated as if they were a single industry, this regional employment multiplier analysis circumvents the tremendous task of sorting out all the interindustry relationships.

The regional employment multiplier tells us the total effect which will result, on the average, from a change in direct employment in the basic industrial sector of the region. Thus, if a basic industry hired 100 additional employees and the regional employment multiplier were, say, 2.9, then an additional 190 jobs would arise indirectly from this change. Thus, the total impact of such a change would not be the 100 jobs directly involved, but 290 jobs.

The multiplier analysis assumes that the indirect employment opportunities created by a direct employment change in a basic industry carry the same wage and salary levels as those involved in the direct change. It is therefore conventional to translate the numbers of people into dollar income and to say, for example, that a $100 change in direct employment in a basic industry in an area whose regional employment multiplier is 2.9 will result in a total change of $290—the direct $100 plus an additional indirect change of $190.

The magnitude of the multiplier is determined by the extent to which direct income leaks out of the income-receiving and income-spending pattern of the local community. Leakages are in turn largely determined by the extent to which a region is economically self-sufficient. A community which performs all its own economic functions and services has little need to import its requirements from outside. In a market as large and as integrated as the United States, regional leakages will be relatively large, of course, since people in New Orleans will import vegetables from California and automobiles from Michigan. Some leakages will occur even in a closed system, since some income is not spent but is, instead, saved. Taxes, for example, are a form of leakage.

[17] Such an analysis is known as an input-output matrix or table, and the masses of data that are required to develop such material are so great that no comprehensive regional tables have been prepared. The U.S. Department of Commerce has recently compiled such a matrix for the United States, based on 370 industrial categories. Even here, cane sugar refining is not treated separately, so that the determination of the indirect impact of the industry—even on a national basis—is not possible.

[18] Defined as those industries from which there is a net export of product from the area.

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Thus, the direct income generated by a basic industry is not infinitely recycled through the community. To an extent, of course, gross leakages are offset by income that enters the region from outside. Thus, for example, tax leakage in the Boston area is partially offset by government spending in the area. Indeed, the leakage created by the importation of automobiles into the New Orleans area is compensated by the extent to which New Orleans exports refined sugar to other regions in the country.

As we know, mainland refineries are located in 10 different areas and, from Department of Commerce data,[11] regional employment multipliers have been developed for each relevant area and are shown in table 19, along with their reciprocals, which describe the extent of leakage from the income stream.

The effect of all this on the cane sugar refining industry is that it enables one to say, with some confidence, that if the procurement of inputs and disposition of outputs by sugar refineries is typical of the total industrial sector in the respective regions, we may estimate the total economic impact of employment in the cane refining industry, in dollar terms, as shown in table 20.

[11] U.S. Department of Commerce, Office of Business Economics, Regional Economics Division, *The Economic Base of Selected Geographic Areas, Historical and Projected: 1929 to 2020*, 1968.

Table 19. Regional Employment Multipliers, U.S. Cane Sugar Refining Locations

Location	Employment multiplier	Leakage from income stream
		(percent)
Boston	2.99	34.6
New York	2.98	33.6
Philadelphia	3.04	34.0
Baltimore-Washington	2.97	33.7
Savannah	2.47	40.3
Miami	3.38	29.9
Chicago	2.89	34.6
New Orleans	3.57	28.0
Houston	3.24	30.9
San Francisco	3.25	30.8

Source: Calculated using sector employment data obtained from the U.S. Department of Commerce, Office of Business Economics, Regional Economics Division, *The Economic Base of Selected Geographic Areas, Historical and Projected: 1929 to 2020*, 1968.

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Table 20. Estimated Total Employment Income Generated by the U.S. Cane Sugar Refining Industry, 1988

Location	Direct employment income	Employment multiplier	Estimated indirect employment income	Estimated total employment income
	(000 dol.)		------000 dollars------	
New Orleans	22,500	3.57	58,900	81,400
San Francisco	18,900	3.23	42,500	61,400
Sugar Land	5,900	3.24	13,200	19,100
New York	28,200	2.98	55,800	84,000
Baltimore	7,400	2.97	14,600	22,000
Philadelphia	12,900	2.94	25,000	37,900
Boston	9,200	2.80	17,400	26,600
Savannah	6,500	2.47	9,700	16,300
Chicago	2,200	2.80	4,100	6,300
Clewiston	400	n.a.	——	400
All other	3,600	n.a.	——	3,600
Total	119,100		240,000	359,000

Source: Direct employment income—Answers to questionnaires sent to USCSRA, expanded to account for entire industry. Employment multiplier—Table 19. Estimated indirect employment income—Multiplier minus 1.0 times direct employment income. Estimated total employment income—Direct employment income multiplied by the multiplier.

Thus we have an indicated indirect employment income of $240.9 million generated from a direct employment expenditure of $119.1 million, yielding an estimated total employment income of over $359 million. Similarly, and subject to the same qualification, the industry's impact on the number of people employed, directly and indirectly, may be estimated as shown in table 21.

Thus it appears that in addition to the more than 12,000 people it directly employs, the mainland refining industry may also provide employment opportunities indirectly for an additional 24,000 people in the refining areas.

The condition which must be invoked before these estimates can be made, namely that the interindustry input-output relationship between sugar refining and other basic industries is representative of the entire industrial sector, of course detracts somewhat from the thrust of the estimates themselves. Nevertheless, even if one were simply to place the estimates within broad limits or to discount the indirect impact arbitrarily, the industry would still emerge as an important contributor to the U.S. economy.

Table 21. Estimated Total Employment Generated by the U.S. Cane Sugar Refining Industry, 1968

Location	Direct employment	Employment multiplier	Estimated indirect employment	Estimated total employment
New Orleans	2,433	3.57	6,253	8,686
San Francisco	1,757	3.23	3,953	5,710
Sugar Land	529	3.26	1,190	1,719
New York	2,712	2.98	5,370	8,082
Baltimore	851	2.97	1,676	2,527
Philadelphia	1,305	2.94	2,532	3,837
Boston	1,048	2.89	1,981	3,029
Savannah	611	2.47	898	1,409
Chicago	229	2.89	433	662
Clewiston	33	n.a.	——	33
All other	541	n.a.	——	541
Total	12,049		24,286	36,335

Source: Direct employment—Table 18. Employment multiplier—Table 19. Estimated indirect employment—Direct employment multiplied by the multiplier minus 1.0. Estimated total employment—Direct employment multiplied by the multiplier.

Senator MELCHER. Well, thank you, Mr. Shanley.

First of all, I just verified this. Customs records are being held since we got into the question of this hearing, and I understand they are being held as of 2 or 3 weeks ago.

Earlier, we talked about drawback on domestic sales. I interpret from your testimony, each of you, that there is no argument that if you imported sugar under quota, while there might have been some duties paid on it and some fees paid on it, in effect, that was recouped when it was sold domestically because domestic consumption was high enough to allow the recouping of that.

Mr. SPRAGUE. I would point out, sir, that if you know anything about marketing, which a lot of people do not, using Mr. Goldberg's example of a $15 market on refined sugar, had we not had to pay those fees and duties and had the market been at $15, we would have been able to pocket the difference between those fees and duties. In other words, it really did come out of our pocket and it certainly did not come out of the taxpayer's pocket.

Senator MELCHER. The consumers paid for it.

Mr. SPRAGUE. Well, sir, when you talk about the consumer's pocket, I think that other people have addressed the fact that this whole program is costing the consumer about $1.5 billion a year.

Senator MELCHER. I understand that. I have been looking at this program off and on as a function of my job for 18 years in the House and Senate, and I understand who pays. We set those prices by acts of Congress and consumers do pay it.

Let me ask you, are you now all in favor of Congress, in view of the circumstances you face and in view of what the international market is, having a policy, whether we call it the Sugar Act or amendments to the farm bill, or whatever?

Mr. SPRAGUE. Well, yes. I mean, something has got to give. In fact, with the increases in the crops just this year, I mean my company calculates that it will be about 5 or 600,000 extra tons of both cane, raw and beet sugar, produced this year. The quotas keep going down and——

Senator MELCHER. Domestically?

Mr. SPRAGUE. That is correct, sir, and quotas keep going down and one of these days that system is going to go kerflooie.

Mr. SHANLEY. Senator, can I just make an observation on the total sugar program which you asked about?

Senator MELCHER. Yes.

Mr. SHANLEY. I think that any total sugar program in the future for the United States must take into consideration exports. If we are going to support the domestic industry the way Congress intends it to do, exports must be taken into account.

This is one easy step toward doing it because the program is in place, but as we look down the line and look at new legislation coming up in 1989, I think the question of exports must be addressed, and perhaps in a better way than it is now. But we look at this program as something that is vital to maintain our interests until that time comes.

Senator MELCHER. Well, Mr. Shanley, this is a new position for Amstar, is it not, that there be such a Federal program enacted by Congress?

Mr. SHANLEY. Well, this is a program that has been in effect—this is not a new program.

Senator MELCHER. Not drawback. The position of Amstar in support of some overall program enacted by Congress is a new position for Amstar.

Mr. SHANLEY. I do not think so, Senator.

Senator MELCHER. It is not?

Mr. SHANLEY. No, sir. Up until about 3 months ago, we——

Senator MELCHER. I heard from you guys before and I have been around here a long time. I do not know. I remember when we used to have what we called the sugar program, and Coca-Cola would come forward and tell us what a fine program it was and how well it worked. When they ceased coming forward and telling us that it was a good program, but said instead it was an outdated program and ought to be scotched, ought to be abolished, that is exactly what happened.

Mr. SHANLEY. We have always been part of it. We owned the Spreckles Refineries up until about 3 months ago, so we have always been vitally interested.

Senator MELCHER. You have always been part of this coalition?

Mr. SHANLEY. Yes, sir.

Senator MELCHER. I recognize the situation you are in. I think I recognize it very easily because we used to close down beet sugar refineries all the time, and over a period of time I watched one, in particular, in Montana shut down and then another one get into a position where we did not know whether it was going to survive or not and it passed through different ownership and it is still surviving.

So I think we might have started first with beet sugar refineries shutting down. I think that is the case, is it not?

Mr. SHANLEY. Yes, sir, I think so, but I think perhaps those shutdowns were caused by the fact that they could not compete among themselves. They were inefficient. Cane sugar refiners are not being shut down because they are inefficient. It is because their source of supply and their markets are being taken away from them.

Senator MELCHER. Well, I think what happened was that we had too much sugar, too many beets, and we had to cut back. I think that is what has happened to cane producers also, is it not?

Mr. SHANLEY. Cane producers go with the——

Senator MELCHER. How about it, Mr. Hanna? Are cane producers being cut back?

Mr. HANNA. I have not noticed any that have.

Senator MELCHER. You have not?

Mr. HANNA. No, sir. It seems to me that——

Senator MELCHER. Did you ever have a period of that? When we were having to cut back on the number of sugar beet producers, were you experiencing the same thing?

Mr. HANNA. No, sir, I do not have any experience like that. It seems to me that there has been an increase in the production capacity of the domestic industry, both beet and cane.

Senator MELCHER. Yes. I want to hasten to add that it seems like we are stabilized and maybe going up a little bit in beet sugar production.

Mr. HANNA. We have gone up quite a lot in beet sugar production.

Senator MELCHER. We did go through a real wringing out period, and I can understand why you might not have understood that as clearly as I did, as we watched those fellows being told to forget about raising any beets for us anymore; we are not going to give you a contract. The only way they could produce beets was by having a contract with a refiner.

Well, in these discussions with the administration, I do not know who mentioned it the most; I think you all kind of implied that you had. But, surely, Mr. Sprague and Mr. Kominus mentioned it directly.

I guess we understand everything about that. You made a series of proposals. You have said, why do you not do this, or why do you not do that.

Mr. SPRAGUE. Our batting average is a thousand, Senator; we have lost every time.

Senator MELCHER. During the same time, were you in discussions with Congress?

Mr. SPRAGUE. Yes, sir.

Senator MELCHER. Who did you discuss it with, your own Senators and your own Representatives?

Mr. SPRAGUE. Oh, surely, yes; oh, yes.

Senator MELCHER. I had not heard from any of you.

Mr. SPRAGUE. Well, you touched on something, sir. Three of us here all have beet sugar adjuncts as well, and we have four beet sugar plants up in Michigan and one in Ohio, for instance. As Bill said, they had Spreckles, and Refined Sugars has Western Beets, one or two of which are plants in your district.

Senator MELCHER. One.

Mr. SPRAGUE. One plant.

Mr. FERRIER. Billings.

Senator MELCHER. Billings. That is the one that went through some pretty trying days of whether it was going to stay open after it went through several different ownerships.

Mr. SPRAGUE. Yes. Well, the Hunt Brothers are a whole other subject, sir. [Laughter.]

We bought one of their plants in Ohio and I cannot tell you how bad it was.

Senator MELCHER. I suspect that there are all sorts of questions that could be asked of you people. You have testified to the total value of drawback funds for each of your companies, I believe. I do not think any one of you missed that, and Mr. Kominus has said what he believes is the total drawback potential for the entire industry.

Without this legislation that we are talking about, this amendment in the trade bill, when would your companies run out of so-called drawback?

Mr. SHANLEY. My company will run out—our last shipment is scheduled for around the 15th of December of this year.

Senator MELCHER. Mr. Hanna.

Mr. HANNA. We will run out of eligibility on January 23, next year.

Senator MELCHER. 1988.

Mr. Sprague.

Mr. SPRAGUE. My company has already run out, sir.

Senator MELCHER. It has already run out.

Mr. FERRIER. We have some to approximately the end of January as well, Senator, 1988.

Senator MELCHER. All this sugar that you are talking about on which drawback is eligible already has been sold on the domestic market, has it not?

Mr. SHANLEY. Yes. It was imported and sold, yes.

Senator MELCHER. In effect, all of that drawback on this sugar has been covered because you sold it at a domestic price that covered that.

Mr. SHANLEY. We do not claim that we had a loss because of that drawback.

Senator MELCHER. You are not claiming that?

Mr. SHANLEY. No.

Senator MELCHER. So if people want to characterize this as a subsidy—and, remember, around this table we know all about subsidies. [Laughter.]

So if people want to characterize this as a subsidy, it does not offend you?

Mr. SHANLEY. I would characterize it as an export enhancement.

Senator MELCHER. We think of it in the same way. [Laughter.]

We are the creators of the Export Enhancement Program.

Mr. HANNA. Senator, you might more properly term this thing a survival kit because that is about what it amounts to.

Senator MELCHER. I understand.

Mr. Sprague.

Mr. SPRAGUE. In principle, in terms of export enhancement it really is very similar to the Wheat Export Enhancement Program.

Senator MELCHER. Yes. One of you has testified—maybe it was you, Mr. Sprague—that you suggested this to the administration, or was it you, Nick?

Mr. KOMINUS. Mr. Sprague.

Senator MELCHER. Mr. Sprague suggested that sugar be entitled to export enhancement?

Mr. KOMINUS. He did, yes, sir.

Mr. SPRAGUE. That is correct.

Senator MELCHER. All right. Now, who testified about what Shepherd got?

Mr. SPRAGUE. I did.

Senator MELCHER. You did, Mr. Sprague?

Mr. SPRAGUE. Yes, sir.

Senator MELCHER. What did they do with that sugar?

Mr. SPRAGUE. They turned it into alcohol.

Senator MELCHER. They turned it into alcohol?

Mr. SPRAGUE. Ethanol. Excuse me; not alcohol, ethanol.

Senator MELCHER. Ethanol?

Mr. SPRAGUE. Yes, sir.

Senator MELCHER. All right, and you used a term which you are going to have to clarify for me. You know where Montana is; we are not on the coast.

Mr. SPRAGUE. Well, I am from Georgia; I am just as bad.

Senator MELCHER. No, no; you are on the coast.

Mr. SPRAGUE. Yes, sir.

Senator MELCHER. All right. I am always reminded of "Travels with Charlie" by that famous author, Steinbeck. He said he liked Montana best of all, except it did not have a coast; it did not have an ocean and a coast.

But you used that term "arbitrage." What does that mean in this case?

Mr. SPRAGUE. I do not recall using the term "arbitrage," but——

Mr. SHANLEY. Arbitrage the freight, he said.

Mr. SPRAGUE. Oh, I beg your pardon.

Senator MELCHER. Yes, arbitrage the freight.

Mr. SPRAGUE. What we had suggested is to ship a similar quantity of sugar out of Hawaii instead of out of Florida——

Senator MELCHER. And save the freight.

Mr. SPRAGUE [continuing]. Which is considerably closer to China, and then let the Hawaiian sugars, in effect, which have been exported to China be replaced by Florida sugars on the east coast, so that you did not pay the freight between Florida and Hawaii, so to speak.

Senator MELCHER. It was also my understanding that the suggestion was made to ship quota sugar from the Philippines and save even more freight.

Mr. SPRAGUE. That is correct. In other words, you could have taken that quota sugar and then substituted for that quota sugar, sugar which was made somewhere in the CBI area where the freight rate is, say, a dollar a hundred less.

Senator MELCHER. You do not know why that suggestion was not accepted?

Mr. SPRAGUE. No, sir.

Senator MELCHER. I do not either. I confess, I do not know why the suggestion was not accepted because it clearly would have saved, you said, $10 million in the case of shipping it from Hawaii.

Mr. SPRAGUE. Yes, sir, in the case of Hawaii.

Senator MELCHER. And it would have probably been more if they shipped it from the Philippines.

Mr. SPRAGUE. That is correct, sir.

Senator MELCHER. Well, this is one that you had better clear up for me because I may be asked this at home. Why is refined beet sugar specifically excluded from the terms of this legislation? We currently export refined beet sugar, so why is refined beet sugar specifically excluded?

Mr. KOMINUS. Mr. Chairman, initially refined beet sugar was included in this amendment as it was drafted last year, but the Florida sugar industry objected to beet sugar being included in this. So the bill was changed last year.

Senator MELCHER. They objected?

Mr. KOMINUS. Yes, sir.

Senator MELCHER. And they are not testifying?

Mr. SPRAGUE. No, sir. I was personally in favor of it because having four beet sugar factories up in Michigan, obviously, we are right next to Canada there and it would have been very advantageous to our company.

Mr. SHANLEY. Of course, since they never paid duty and drawback, intrinsically they are not participants in the program. They

can only be part of the program as a result of some sort of a toll or some sort of an arrangement with a cane refiner. Intrinsically, they would not be part of the program.

Senator MELCHER. Originally, they were part of it and then the language was changed. Well, that clears it up. I will be able to answer any questions asked of me in Billings, Montana, or Sidney, Montana, or points in between from those beet producers.

But the point is, and I do not think any of you has missed it, that the beet sugar people, while they may not want to rock the boat, view this as an arrangement clearly drawn to help a limited number of cane refiners.

I am not disputing any of your testimony as to what activity means in terms of jobs in your refineries, and what it also means in terms of continued availability of refining capacity for sugar cane producers.

I think in this Congress, like every other Congress since I have been here, the question is clearly identifying the problem, utilizing a subsidy to protect domestic producers and determine what is needed for domestic producers to hold together in what we used to call the farm coalition. It is still alive.

We have to always answer these questions on how come we do subsidize agriculture. Of course, the answer is we subsidize agriculture because we want some domestic production and we want to keep them in business.

We realize that—one of you used this term, I think, a level playing field or something; it means the same in terms of exporting. We realize that, too. We realize what we are up against. We are not living in any unreal world. We know what these subsidies mean in the case of the European Community and selling on the international market in order to move their product which, after all, costs more to produce.

I do not know about the refining. Maybe they are as efficient in refining as we are, but they are certainly not as efficient in production as the United States is. We understand all that.

Now, I want to compliment you on one thing. First of all, before I compliment you, I will give you the other bad news. I think it is pretty clear that you have caused some resentment, at least in me, in just finding out about this arrangement when we get the trade bill on the floor.

I do not know whether I was supposed to know about it before, but I do not recall hearing from any of you about what you were doing. I would hope to have done at least one thing: to assist in evolving a program for sugar that is more sensible than it is now.

Many of you, perhaps all of you, referred to when this act expires. We have got an unworkable situation. I do not think any of us here in this committee are averse to looking at unworkable situations prior to the expiration of the 1985 act.

It is true that we are not out advocating people to come forward and tell us to amend this or that in the act, but that does not mean that we have an unworkable situation that we are averse to looking at proposals on.

What the Department has proposed is that if we lower the support price down to a level of around 12, 14, 15 cents, it means that

people who produce sugar beets, and I suppose cane sugar, also, would simply be out of business.

If we take the other alternative where they have quotas for beet producers, cane producers, and for sweeteners, that seems to be very unworkable. I do not know whether we could go into that. If we get into establishing a quota for corn, it might be pretty difficult. At least I do not think—and I am not speaking for them, but I do not think the bulk of the members of this committee would want such a quota. But, nevertheless, where the program is not working, we are not averse to looking at it.

But the point I said I wanted to compliment you on, is simply this: that this is a form of subsidy, and if that does not offend you and you are willing to say that it is, I think that is all for the better.

As I said, we are used to subsidies around here. I do not know whether we first invented them. I do not think we did, but we have sure written a lot of law that subsidizes in this committee.

That is all I have, and I want to thank you all for your testimony and for submitting the documents that you have all submitted.

We will put in the record a statement that Senator Chafee has submitted for the record.

[The prepared statement of Hon. John H. Chafee follows:]

PREPARED STATEMENT OF HON. JOHN H. CHAFEE, A U.S. SENATOR FROM RHODE ISLAND

Mr. Chairman, let me begin by commending you for holding today's hearing. I am sure all parties would agree that Section 897 has become a controversial part of the trade legislation pending before Congress. As you know, after extended debate on the floor of the Senate an effort to delete this provision was narrowly defeated by a 49–44 vote. This debate clearly established that there are major questions about this provision. Yet—until today—no hearings have been held in either the Senate or the House of Representatives on this provision. As you wisely concluded, a hearing should be held on a provision of this significance so members of Congress can learn all the possible effects of this legislation. In the aftermath of recent turmoil in financial markets, it is even more important that Congress closely scrutinize legislation of this type. After briefly describing the current law on this issue and how Section 897 would change current law, I will explain my three major objections to this provision.

Under current law, an exporter of any product may obtain a refund, known as a drawback, of any import duties or fees previously paid on that item or similar item as long as the export occurs within five years of the original import and certain other conditions are met. This rule applies to all imported products.

The sugar drawback provision would establish special rules for drawback on cane sugar exports. Under this provision, special rules would be enacted which would extend the current five-year limitation back ten years to November 1, 1977. Furthermore, it would extend the period forward until October 1, 1991. Therefore, there would be a fourteen-year period in which to file drawback, which would be nearly triple the period under current law. In other words, under this provision, drawback claims could be made in 1991 based on import duties paid as long ago as 1977. Again, I want to stress that this applies only to cane sugar, not to beet sugar or any other products. Also, it should be pointed out that under the substitution provision of the current law, the sugar that would be exported in 1991 would not necessarily be the same sugar on which duties were paid in 1977.

There are three major problems of this sugar drawback provision. First, this provision would permit hundreds of millions of dollars to be removed from the Federal Treasury to benefit a few U.S. cane sugar refiners. It has been estimated that close to eight hundred million dollars ($800,000,000) in drawback rights would be available if this provision were enacted. Of this amount, over a quarter of a billion dollars would go to just three companies. Two of these companies are of the Fortune 500 list of the largest corporations in the United States. It has been estimated that one company alone will receive $135 million if this provision is enacted. The propo-

nents of this provision argue that $800 million will not necessarily be claimed by U.S. sugar refiners under this provision. However, we do not know how much this bill would cost because the provision does not establish any cap on the total amount that would be paid. Also, there is no guarantee that these monies would not be paid out in the immediate future, that is, within the next one or two years. At a time when our budget deficit is at an all time high, and when we are struggling to meet Gramm-Rudman targets to convince the financial markets that the government can control spending, it seems absurd to enact legislation that would permit unlimited payments of millions of dollars to just a few refiners.

The second major objection to this provision is that the bulk of the claims made under this provision could not be verified by U.S. Customs. In order to ensure against false claims, Customs must review the original entry documents before paying drawback claims. Because the current restrictions of U.S. law limit drawback claims to a maximum of eight years, pursuant to normal procedures, Customs has destroyed a substantial number of documents that would be used to verify drawback claims on sugar originally imported in 1977, 1978 and 1979. I understand that these are the key years from the perspective of the proponents of this legislation. I should note that the sugar drawback system has already been tainted with fraudulent claims. Although no refiners have been indicted, an extensive Customs investigation called "Operation Bittersweet" has already produced 48 indictments, 40 convictions and over $15 million in fines and negotiated settlements thus far. I understand that Operation Bittersweet is continuing. While the sugar companies that would directly benefit from this sugar drawback amendment have not been indicted, prior fraudulent activity in the drawback program generally demonstrates the need for Customs to have records to verify drawback claims.

Finally, the third major objection to this bill is that as it applies to refined sugar, it provides export subsidies which are prohibited by the General Agreement on Tariffs and Trade. This particular type of drawback extension is expressly prohibited by an illustrative example attached to the Subsidies Code which was negotiated during the Tokyo Round of GATT negotiations. This example permits substitution drawback for a reasonable period, normally not to exceed two years. Our current program of going back five years stretches our GATT compliance to the very limit and expanding to a fourteen-year period for sugar under this provision would be a clear violation of our GATT obligations. At a time when we are trying to strengthen the procedures under GATT there is no reason to give this special privilege to this group to make claims that they had the opportunity to make in the past but which they did not make.

I should also note that while millions of dollars will be provided to sugar refiners under this provision, there is no control over how that money might be spent. For instance, the Omnibus Trade Bill contains a provision in Section 201 that requires certain industries seeking trade assistance from the U.S. government to submit a plan on how they are going to increase their competitiveness. That is not present in this bill at all. It merely provides blank checks to U.S. corporations.

The proponents of this legislation claim that if this subsidy is not provided, refiners will go out of business. If these refiners are going out of business it is not related to the drawback provisions. It is a result of the general sugar program that was enacted several years ago. The combination of the high support price for sugar, the quotas imposed on sugar imports, and the increased use of corn sweeteners have all resulted in less raw cane sugar for the refiners. While some may go out of business, they are not all going out of business. We are stuck with a bad sugar program. This particular provision would merely create another subsidy, throwing more good money after bad. We should not create another bad program to make up for an original mistake.

Mr. Chairman, since the close vote on the Senate floor approving this provision, the financial markets have declined dramatically, in part because of concern that Congress and the Administration have not controlled government spending. In the aftermath of Black Monday, the Administration and Congressional leaders have been working hard to achieve significant controls on government spending. Acceptance of this costly sugar drawback provision—which would simply benefit only a few profitable companies—would send exactly the wrong signal to Wall Street. Now, more than ever, this outrageous government handout should not be enacted.

Senator MELCHER. The subcommittee is adjourned.

[Whereupon, at 1:48 p.m., the subcommittee adjourned, subject to the call of the Chair.]